

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

|                        |   |                          |
|------------------------|---|--------------------------|
| EARL RINGO, et al.,    | ) |                          |
|                        | ) |                          |
| Petitioners,           | ) |                          |
|                        | ) |                          |
| vs.                    | ) | Case No. 09-04095-NKL    |
|                        | ) |                          |
| GEORGE A. LOMBARDI, et | ) |                          |
| al.,                   | ) |                          |
|                        | ) | August 23, 2010          |
| Respondents.           | ) | Jefferson City, Missouri |

DEPOSITION OF GEORGE A. LOMBARDI,

a Respondent, produced, sworn and examined on August 23, 2010, between the hours of 8:00 a.m. and 6:00 p.m. of that day, at the offices of the Missouri Attorney General, Broadway State Office Building, 221 West High Street, 6th Floor, in the City of Jefferson, County of Cole, State of Missouri, before

SHELLY L. STEWART, CCR (No. 619)

CAPITAL CITY COURT REPORTING

Jefferson City \*\* The Lake \*\* Columbia

573-761-4350 \* 573-365-5226 \* 573-445-4142

within and for the State of Missouri, in the above-entitled cause, on the part of Petitioners Ringo, Middleton, Bucklew and Smulls, taken pursuant to notice.

CAPITAL CITY COURT REPORTING

COLUMBIA 573-445-4142

JEFF CITY 573-761-4350

The LAKE 573-365-5226

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SIGNATURE INSTRUCTIONS:

Signature Requested; Presentment Waived.

EXHIBIT INSTRUCTIONS:

Petitioners' Deposition Exhibit Nos. 1 through 6,  
inclusive, are attached to the original transcript.

I N D E X

Direct Examination by Ms. Pilate

5



## E X H I B I T S

|    |  |     |
|----|--|-----|
| 1  |  |     |
| 2  |  |     |
| 3  | Petitioners' Deposition Exhibit No. 1      |     |
| 4  | Protocol for Preparation and               |     |
| 5  | Injection of Chemicals                     | 33  |
| 6  |  |     |
| 7  | Petitioners' Deposition Exhibit No. 2      |     |
| 8  | Interrogatories                            | 72  |
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| 10 | Petitioners' Deposition Exhibit No. 3      |     |
| 11 | Memorandum and Sequence of Chemicals       |     |
| 12 | and Chemical Log form from Mr. Clements to |     |
| 13 | Mr. Larkins, dated June 2, 2009            | 95  |
| 14 |  |     |
| 15 | Petitioners' Deposition Exhibit No. 4      |     |
| 16 | Department of Corrections Forms:           |     |
| 17 | Sequence of Chemicals, Pre-Execution       |     |
| 18 | Summary of Medical History, and            |     |
| 19 | Medical & Nonmedical Personnel Checklist   | 95  |
| 20 |  |     |
| 21 | Petitioners' Deposition Exhibit No. 5      |     |
| 22 | DEA Controlled Substance                   |     |
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GEORGE A. LOMBARDI, having first been duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. PILATE:

Q. Good morning, Mr. Lombardi.

**A. Good morning.**

Q. How are you?

**A. Okay.**

Q. Could you please state what you do for a living?

**A. I'm the director of the Missouri Department of Corrections.**

Q. And how long have you been with the Department of Corrections?

**A. This go-around since February -- January of '09.**

Q. Okay. When you say this go-around, what do you mean?

**A. I retired in 2005 after 33 years in the Department of Corrections.**

Q. And someone persuaded you to return?

**A. Yes.**

Q. How did that come about?

**A. I actually was recruited by the governor to come be director.**

Q. Uh-huh. So you were 33 years with the DOC and retired in '05?

**A. Uh-huh.**



1 Q. And then when you were enjoying your retirement  
2 years and presumably playing with grandchildren or  
3 something like that enjoyable, someone recruited -- the  
4 governor recruited you and asked you to come back?

5 A. Yeah. I applied for the job and -- under the  
6 understanding that he was interested in hiring me.

7 Q. Okay. What year did you start with the  
8 Department of Corrections and then we'll work through your  
9 various positions?

10 A. I actually started as an intern working on my  
11 master's degree in psychology from Central Missouri State  
12 at the time in 1972.

13 In 1973 after that six-month internship, I was  
14 hired on on a federal grant as program director of a  
15 prerelease program. And that was at Renz Correctional  
16 Center, which no longer exists.

17 Q. That was a women's facility, correct?

18 A. No. It was a male facility back then.

19 Q. Back then?

20 A. Yeah.

21 Q. Okay.

22 A. And in September of 1976, I became warden of the  
23 State Correctional Prerelease Center in Tipton, Missouri.  
24 And that was after the realignment of the women and the men  
25 between Tipton and Renz. I took the men up to Tipton and



1 the women came from Tipton to Renz.

2 Q. Okay.

3 A. In 1979, I became warden of the Algoa  
4 Correctional Center out here east of town here in Jefferson  
5 City.

6 In 1983, I became assistant director of the  
7 Division of Adult Institutions and was responsible for half  
8 the prisons in terms of supervision.

9 Q. Uh-huh.

10 A. And then in 1986, I became director of the  
11 Division of Adult Institutions and retired in that capacity  
12 in February of 2005.

13 Q. And who was director when you retired?

14 A. Gary Kempker.

15 Q. Who was the director of -- oh, of the Department  
16 of Corrections?

17 A. Uh-huh.

18 Q. Okay. Gary Kempker?

19 A. Well, actually -- no, Larry Crawford had already  
20 come in.

21 Q. Okay.

22 A. I'm sorry. Larry Crawford had come in as  
23 director.

24 Q. Okay. In your capacity as director of Adult  
25 Institutions, did you have any involvement with executions?



1           **A.     I did.**

2           **Q.     And what was your involvement?**

3           **A.     As director of the institutions, I was present at**  
4 **all the executions, except for the ones that I wasn't,**  
5 **which either I was out of state or something, but for the**  
6 **vast majority I was.**

7                   **And in that capacity I was responsible for**  
8 **overseeing all the operations in terms of the security of**  
9 **the operation, make sure everything was in place.**

10                   **And I also was present during the executions.**

11           **Q.     During each execution?**

12           **A.     Pardon me?**

13           **Q.     During each execution?**

14           **A.     Yes.**

15           **Q.     How many executions were you present for?**

16           **A.     Probably 60.**

17           **Q.     Did you play any active role in them?**

18           **A.     Pardon me?**

19           **Q.     Did you play any active role in them?**

20           **A.     What do you mean by that?**

21           **Q.     Did you physically do anything?**

22           **A.     No.**

23           **Q.     And was your role pretty much a supervisory one?**

24           **A.     Yes.**

25           **Q.     Were you the person who was in contact with the**



1 governor and the courts during the process or was that  
2 somebody else?

3 **A. No. That would be the director.**

4 Q. Okay. And what did you do? You said you secured  
5 security, what do you mean by that?

6 **A. I meant that I made sure that there was -- the**  
7 **external security personnel were adequate, the internal**  
8 **security personnel were adequate, that the entrance and**  
9 **egress of the victim's witnesses, inmate witnesses and**  
10 **state witnesses were appropriate. I did all that through**  
11 **supervising the warden and my associates.**

12 Q. Okay. You said you supervised the warden, what  
13 does that mean? Did you supervise him in his tasks in  
14 aiding in the execution?

15 **A. What do you mean by aiding in the -- you mean the**  
16 **actual execution itself?**

17 Q. Uh-huh.

18 **A. No, just in his role of the warden of that prison**  
19 **and, you know, assigning people to the different security**  
20 **posts, ensuring that that egress of people was appropriate,**  
21 **so that would be part of my responsibility.**

22 Q. Okay. Where were you during the executions?

23 **A. I was in the area between the state's witnesses**  
24 **and the victim's witnesses.**

25 Q. Who was the person who was in charge with the



1 governor's office and the courts?

2 **A. You mean who was the contact?**

3 Q. The liaison.

4 **A. Okay. The contact with the governor's office**  
 5 **would be the director and the contact with the courts was**  
 6 **the chief counsel.**

7 Q. How many individuals were actively physically  
 8 involved in the execution process during those years?

9 **A. I don't remember the exact number. I don't**  
 10 **recall that.**

11 Q. Could you give me an approximation? Was there  
 12 less than --

13 **A. I would be guessing. I don't remember.**

14 Q. Well, what I mean is dealing with the person  
 15 being executed, was it fewer than ten, more than ten?

16 **A. Probably fewer than ten.**

17 Q. Okay. And that group included department  
 18 employees; is that right?

19 **A. Yes.**

20 Q. And then outside contractors with medical  
 21 backgrounds?

22 **A. Correct.**

23 Q. Was there always a doctor present during the  
 24 execution?

25 **A. I believe that is the case.**



1 Q. Okay.

2 A. I believe that is the case.

3 Q. Do you recall any execution where the doctor was  
4 not present?

5 A. I don't.

6 Q. Okay. Were there other medical professionals  
7 there with the doctor?

8 A. Yes.

9 Q. Okay. And who were they, by description?

10 A. There was a nurse present.

11 Q. Was there a doctor and a nurse at every  
12 execution?

13 A. I can't tell you that. I don't recall that.

14 Q. Was there always a second medical person there  
15 with the doctor?

16 A. Don't recall that.

17 Q. Was there ever any other kind of medical  
18 professional there besides a doctor and a nurse?

19 A. Not to my knowledge.

20 Q. Has there ever a pharmacist there?

21 A. Not to my knowledge.

22 Q. Has there ever been an EMT?

23 A. I don't recall that.

24 Q. To prepare for today's deposition, did you do  
25 anything?



1           **A. Did I do anything?**

2           Q. To review, yeah. Did you review anything to  
3 prepare for today's deposition?

4           **A. I reviewed my interrogatory answers.**

5           Q. Did you review anything else?

6           **A. No.**

7           Q. Have you given a deposition before?

8           **A. I have.**

9           Q. How many times have you been deposed?

10          **A. I don't recall. Probably more than 20.**

11          Q. Have you ever been deposed in connection with  
12 lethal injection?

13          **A. Not per se. I have been deposed on the death**  
14 **penalty issue before.**

15          Q. Okay.

16          **A. I don't recall that it had anything to do**  
17 **specifically with lethal injection.**

18          Q. What did it have to do with?

19          **A. I can't recall what the issue was. It's been a**  
20 **number of years ago.**

21          Q. Now, during those years when you were director of  
22 Adult Institutions, was there a written execution protocol?

23          **A. There was.**

24          Q. And what did that say?

25          **A. What did it say?**



1 Q. Uh-huh.

2 MS. BORESI: I'm going to object to the question  
3 as overly broad.

4 BY MS. PILATE:

5 Q. What did -- could you describe the protocol?  
6 What did it cover, what subjects? Did it say who needed to  
7 be there? Did it say what they did? Did it say what  
8 chemical or drugs were to be used? What did it say?

9 A. All of those things that you just said.

10 Q. Okay. Can you tell me what you remember about  
11 the protocol?

12 A. Very little. It's been too many years.

13 Q. Well, tell me anything you remember.

14 A. I know that there was information about what  
15 everybody was supposed to do. There was information about  
16 the drugs. There was information -- but the specifics, you  
17 know, are -- elude me.

18 Q. Did you ever review it?

19 A. Yes.

20 Q. Did you have any role in drafting it?

21 A. No.

22 Q. And what was your purpose in reviewing it? Did  
23 you have a reviewing responsibility or --

24 A. Well, I know I probably had input, especially  
25 into the security aspects of it. I reviewed that to make



1     sure that there was adequate personnel available,  
2     especially in the security piece of it. I did ensure that  
3     there were -- you know, the issue I talked about before  
4     about the entrance and egress, to make sure that the  
5     witnesses did not, in fact, have contact with one another.

6             The other thing I remember is to ensure that the  
7     staff of the prison did not have contact with protesters.  
8     That was the county's responsibility. Those are the kind  
9     of things I remember having input into.

10            Q.     Who drafted the protocol?

11            A.     Back then?

12            Q.     Uh-huh.

13            A.     I'm sure counsel had a lot to do with it, but,  
14     you know, I'm not going to be very specific and remember  
15     exactly how that happened.

16            Q.     Was there one unified protocol or were there  
17     separate directions for different groups of people like  
18     security people, medical people, other people?

19            A.     Well, there were post orders for a variety of  
20     different people.

21            Q.     Okay. What do you mean post orders?

22            A.     I mean, what they were supposed to do.

23            Q.     Uh-huh.

24            A.     So you had an external security officer and what  
25     their job was, as an example. So there were a number of



1 **those.**

2 Q. Uh-huh. Was there a protocol for the  
3 administration of the lethal injection drugs?

4 **A. To the best of my recollection.**

5 Q. Well, did you ever see it?

6 **A. I probably did.**

7 Q. Do you have a specific recollection?

8 **A. No.**

9 Q. So you know nothing about that?

10 **A. I don't have a recollection about it. I don't**  
11 **remember if I -- I certainly didn't -- that's all I have to**  
12 **say. I don't remember it.**

13 Q. Okay. You don't remember it one way or the  
14 other?

15 **A. Right.**

16 MS. BORESI: Well, I'm going to object. I think  
17 that mischaracterizes his testimony. He said he doesn't  
18 remember specifics.

19 THE WITNESS: Right.

20 BY MS. PILATE:

21 Q. Well, we'll clarify here. Do you remember that  
22 such a document existed?

23 **A. To the best of my recollection, yes, there was a**  
24 **document involving the administration of the drugs.**

25 Q. Who wrote that?



1           **A.     I don't recall that.**

2           Q.     What did it say?

3           **A.     I don't recall.**

4           Q.     Was it ever reviewed by anyone?

5           **A.     I don't recall who, if anyone, did review that.**

6           Q.     Who relied on that document?

7           **A.     Who relied on the document?**

8           Q.     Yeah.   Who was it supposed to provide guidance  
9     to?

10          **A.     Those that were involved in the execution process**  
11     **itself.**

12          Q.     Do you know if the doctor, who was with the  
13     execution team at that time, had a role in writing that  
14     protocol?

15          **A.     I don't recall.**

16          Q.     Was anyone responsible, other than the doctor,  
17     for reviewing or revising that protocol?

18          **A.     No, I don't recall specifically.**

19          Q.     Did anyone ever watch the doctor as he prepared  
20     the drugs for execution?

21          **A.     Well, everybody that was in the execution process**  
22     **area would have been there at the time, so . . .**

23          Q.     Did anyone with medical knowledge ever watch the  
24     doctor as he prepared the drugs?

25                 MS. BORESI:   I'm going to object.   I don't know



1 that it's been established that this witness has personal  
2 knowledge as to what was done in the execution room unless  
3 he was there himself.

4 MS. PILATE: Okay. Let me say, he can answer  
5 that. If you don't know something, I would prefer -- let  
6 me make it clear now. If he doesn't know something or it's  
7 not within his personal knowledge, he can say that. I can  
8 then ask him did anyone ever tell you about that, because  
9 that's also discoverable, but an objection like that tends  
10 to coach the witness.

11 BY MS. PILATE:

12 Q. So I'll just say right now, for the record, so  
13 that you understand, if there is something you don't know,  
14 just say I don't know. That's fine with me. I'm not going  
15 to try to get you to reconstruct memories you don't have.

16 So if you don't know something, say you don't  
17 know. If you don't remember, you say you don't remember.  
18 If you didn't see something, you can say I never saw that,  
19 but then I might ask you, did anyone ever tell you about  
20 that? So all of those things are proper during the  
21 deposition, okay?

22 A. Uh-huh.

23 Q. Okay. Now, with regard to the prior protocol --

24 MS. PILATE: Could you please read back what my  
25 question was before the objection?



1 THE COURT REPORTER: "Question: Did anyone with  
2 medical knowledge ever watch the doctor as he prepared the  
3 drugs?"

4 THE WITNESS: I don't know.

5 BY MS. PILATE:

6 Q. Did anyone ever tell you whether or not anyone  
7 with medical knowledge watched the --

8 A. Not that I recall.

9 Q. Now, are you aware that a new protocol was issued  
10 in July of 2006 relating to the administration of lethal  
11 injection?

12 A. I am.

13 Q. Do you know to what degree the present protocol  
14 is similar to the protocol that was used before 2006?

15 A. No.

16 Q. Do you know who wrote the protocol that is being  
17 used now?

18 A. No. I was not present for that.

19 Q. Okay. What is your present involvement with  
20 executions?

21 A. As director I am, as I said before, the director  
22 of Corrections is the liaison with the governor's office  
23 during that process.

24 Q. Are you, according to your procedures, supposed  
25 to be present for every execution as director of the



1 Department of Corrections?

2 **A. I'm to be present on-site, yes.**

3 Q. Are you aware if there were any problems noted  
4 with the prior protocol?

5 **A. No.**

6 Q. Did anyone ever tell you about any problems  
7 involved with the doctor who was present at the executions  
8 during the time that you were director of Adult  
9 Institutions?

10 **A. Yes, I'm aware of the issues with the doctor.**

11 Q. Okay. What did you learn about that?

12 **A. What I knew about that issue frankly was in the**  
13 **newspaper, about his comments.**

14 Q. Okay. Did anyone ever tell you in your capacity  
15 as an official within the Department of Corrections that  
16 there had been problems?

17 **A. No, not that I recall.**

18 Q. Did you ever have a conversation with anyone at  
19 the Department of Corrections about problems with the  
20 doctor?

21 **A. No, I did not.**

22 Q. Did anyone within the Department ever make you  
23 aware of any problems with the mixing of the lethal  
24 injection drugs by the doctor who was involved in the  
25 executions up through 2005?



1           **A.     No.**

2           Q.     So that conversation -- no such conversation ever  
3 occurred with you?

4           **A.     That's how I recall. I do not recall any such**  
5 **conversation.**

6           Q.     Did anyone ever send to you a memorandum or any  
7 kind of written communication on that topic?

8           **A.     Not that I recall.**

9           Q.     Are you saying that the only knowledge that you  
10 ever obtained of any problems with that doctor's method in  
11 mixing drugs came from press coverage?

12          **A.     That's how I recall it at this point.**

13          Q.     Were you still with the Department when that  
14 press coverage occurred?

15          **A.     Yes.**

16          Q.     What did you do in response to seeing the press  
17 coverage?

18          **A.     I don't recall that I did anything in particular.**

19          Q.     Did you ever make inquiry with anyone about what  
20 was going on or who was supervising the doctor?

21          **A.     No.**

22          Q.     And why was that?

23          **A.     That issue, to the best of my knowledge, was the**  
24 **director's issue. All that came out through the director**  
25 **of Corrections at the time.**



1 Q. So that was not your responsibility?

2 A. No.

3 Q. Do you know how the particular drugs that have  
4 been used in lethal injection in Missouri have been  
5 selected?

6 A. Not specifically. I don't recall that. I know  
7 that when we started the process, that that set of drugs  
8 had already been used in other jurisdictions, and to the  
9 best of my recollection, that was why they were selected.

10 Q. Has -- do you know if at any point there has ever  
11 been a change in the particular drugs that have been used?

12 A. No, not to my knowledge.

13 Q. Do you know if the doctor who was present and  
14 involved with the executions up through '05 ever wrote any  
15 prescriptions for any of the drugs used in executions?

16 A. No, I'm not aware of that.

17 Q. You're not aware one way or the other, you just  
18 don't know?

19 A. I'm not aware, no.

20 Q. What about at present, do you know if anyone  
21 writes any prescriptions for any of the drugs used in  
22 lethal injection?

23 A. I don't believe that that occurs.

24 Q. What is the basis of your belief?

25 A. The issue is, as I understand it, that once the



1     **DEA and the Missouri Health Department has approved that**  
2     **drug -- those drugs, that there's no necessity to do a**  
3     **prescription for them.**

4           Q.     And how did you come to that conclusion?

5           A.     **I can't recall how we got that information, but**  
6     **that's my understanding.**

7           Q.     Now, do you know if the FDA has ever approved the  
8     drugs used in lethal injection for the purpose of  
9     execution, either individually or in combination?

10          A.     **No, I don't believe that that has occurred.**

11          Q.     Okay. So to your knowledge, the FDA has not  
12     approved sodium thiopental for use in executions?

13          A.     **That's true.**

14          Q.     Okay. And to your knowledge, the FDA has not  
15     approved pancuronium bromide for use in executions?

16          A.     **True.**

17          Q.     And to your knowledge, the FDA has not approved  
18     the use of potassium chloride for executions?

19          A.     **True.**

20          Q.     Can you tell me what your basis is for believing  
21     that these drugs can be used either individually or in  
22     combination in an execution?

23          A.     **As I understand it, that -- because the**  
24     **institution itself has a certification from DEA and from**  
25     **the Missouri Department of Health to utilize the drugs,**



1     **that that is not necessary or required.**

2           Q.     Okay.  What type of certification are you talking  
3     about?

4           A.     **There's a certification to utilize the drugs from**  
5     **DEA and from the Missouri Department of Health as I**  
6     **understand it.**

7           Q.     Is it to use the drugs for these purposes?

8           A.     **It's to -- just to have the drugs and use them as**  
9     **they see fit.**

10          Q.     Do you know if it's been disclosed to the DEA and  
11     the Missouri Health Department that the drugs were being  
12     used for the purpose of lethal injection?

13          A.     **I have no specific knowledge of that.**

14          Q.     Now, what does the DEA have to do with the drugs  
15     that are used in lethal injection?

16          A.     **They have to approve the possession of the drugs**  
17     **by our agency, as I understand it.**

18          Q.     Is that for all drugs or one or --

19          A.     **For scheduled -- for narcotic drugs to the best**  
20     **of my recollection, best of my knowledge.**

21          Q.     Okay.  And your institutions might possess  
22     narcotic drugs for other substance -- for other reasons  
23     other than execution, right?

24          A.     **True.**

25          Q.     So you would agree that -- for instance, an



1 institution might need to have a DEA license to possess  
2 tranquilizers or benzodiazepine that might be given to an  
3 inmate for a number of reasons?

4 **A. I don't have specific knowledge about that, but**  
5 **I -- that's all I know.**

6 Q. Do you know which of the lethal injection drugs  
7 is what you call a narcotic?

8 **A. No.**

9 Q. Do you believe all of them are narcotics?

10 **A. I don't have enough knowledge to say one way or**  
11 **the other.**

12 Q. Who makes a decision as to whether or not a  
13 prescription is written?

14 **A. My understanding is that there is not a necessity**  
15 **to have a prescription written once we have the DEA**  
16 **certification and the Department of Health certification.**  
17 **But those decisions were made during the -- apparently**  
18 **during the time the protocol was written in my absence.**

19 Q. Okay. Now, would you agree that most hospitals  
20 probably dispense narcotics?

21 **A. True.**

22 Q. Okay. And so you would assume that they would  
23 have some certification or approval or document of some  
24 kind from the DEA saying that they are approved for  
25 possession of narcotics?



1           **A. I have no knowledge about what hospitals do in**  
2           **that relationship.**

3           Q. Okay. Well, is it your understanding a hospital  
4 would generally have to have a prescription in order to  
5 dispense a drug for a specific purpose?

6           MS. BORESI: I'm going to object to the question.  
7 The witness said he doesn't have knowledge and it's also  
8 asking him to form a legal opinion.

9           MS. PILATE: I'm just asking him based on his  
10 knowledge as a -- as a person.

11           THE WITNESS: I have no idea.

12 BY MS. PILATE:

13           Q. A human being living in this world?

14           **A. I'm living in this world, but I have no knowledge**  
15           **about what hospitals do in terms of their drugs.**

16           Q. Okay. Do you know if the prison health services,  
17 when they are dispensing narcotics, do so with a  
18 prescription or written order from the doctor?

19           **A. I have to assume that they do, but I don't have**  
20           **specific knowledge of that.**

21           Q. Okay. Why do they use prescriptions?

22           **A. Why do they use prescriptions?**

23           Q. Yeah. You said -- or, you know, assuming they  
24 use prescriptions, which you assume they do, why would the  
25 prison health services use prescriptions if the facility



1 has a DEA certification of some kind?

2 **A. I think that's what their requirement is as a**  
3 **medical entity, but I don't know enough about this to make**  
4 **a judgment about that.**

5 Q. Okay. Whose requirement is as a medical entity?

6 **A. The medical entity I'm referring to is the people**  
7 **that provide medical care for the inmates. In this case**  
8 **Correctional Medical Services.**

9 Q. Okay. Do you know if they rely on their own  
10 certification or the facility's certification?

11 **A. I have no idea what the answer to that question**  
12 **is. I just don't know.**

13 Q. And in your experience as a person, do doctors  
14 write prescriptions for narcotics?

15 MS. BORESI: Object on grounds of relevance.

16 BY MS. PILATE:

17 Q. You can answer.

18 **A. Yes, I'm sure they do.**

19 Q. Okay. And presumably some of those prescriptions  
20 would be written for individuals in facilities such as  
21 nursing homes, hospitals and the like, would they not?

22 **A. I suppose.**

23 Q. Okay. And what I'm trying to figure out is why a  
24 prescription would not be written for an inmate receiving a  
25 narcotic?



1           **A.     I don't know enough about that.**

2           Q.     Whose responsibility is it to have the knowledge  
3     in that area so that they could answer a question about  
4     that?

5           **A.     Knowledge of what, about what?**

6           Q.     Prescriptions.

7           **A.     I'm sorry?**

8           Q.     What I just asked you about. I just asked you  
9     about prescriptions for inmates receiving drugs in a lethal  
10    injection. And you said, I don't know enough about that.  
11    So I'm asking you who would have the knowledge about that  
12    topic?

13          **A.     Are you asking me -- I'm confused, because you**  
14    **started asking me about any prescriptions for narcotic**  
15    **drugs. And are you asking me now about the lethal**  
16    **injection drugs?**

17           MS. PILATE: Could you please go back and read  
18    the question that preceded Mr. Lombardi's answer, I don't  
19    know enough about that.

20           THE COURT REPORTER: "Question: And what I'm  
21    trying to figure out is why a prescription would not be  
22    written for an inmate receiving a narcotic?"

23           MS. PILATE: I don't think that's -- is that the  
24    one that says --

25           THE COURT REPORTER: And then after that he said:



1 "Answer: I don't know enough about that."

2 MS. PILATE: Okay. What's the next question?

3 THE COURT REPORTER: "Question: Whose  
4 responsibility is it to have the knowledge in that area so  
5 that they could answer a question about that?"

6 BY MS. PILATE:

7 Q. Okay. Let me reframe that. Can you tell me why  
8 there are no prescriptions written for inmates receiving  
9 drugs in lethal injection?

10 **A. Because, as I understand it, and I think I've**  
11 **answered it before, that there is a certification from DEA**  
12 **and from the Missouri Health Department to allow us to**  
13 **possess those drugs and use them accordingly.**

14 Q. Can they be used by anybody in the facility?

15 **A. Not to my knowledge.**

16 Q. Who has to use them?

17 **A. The medical team that applies them.**

18 Q. Can those drugs be generally used in your  
19 facility without any prescription?

20 **A. The lethal injection drugs?**

21 Q. Yeah, for any purpose.

22 **A. The lethal injection drugs?**

23 Q. Well, they are drugs that have a variety of  
24 medical purposes, right?

25 **A. True.**



1 Q. And are you saying they can be used in your  
2 facility for any particular purpose with no prescription?

3 A. I don't know that they are used that way.

4 Q. But I'm asking you could they be?

5 A. I have no idea.

6 Q. Who has knowledge of this area?

7 A. What area?

8 Q. Prescriptions and lethal injection drugs?

9 A. The use of prescriptions for lethal injection  
10 drugs, I'm telling you all I know and beyond that I don't  
11 know.

12 Q. Who would have any further knowledge than you?

13 A. I have no idea who that would be.

14 Q. Is there a person who would have any more  
15 knowledge than you?

16 A. I don't know.

17 Q. Okay. Have you ever -- have you ever heard of  
18 something called an off-label use of a drug?

19 A. No.

20 Q. Okay. Are you aware that the FDA approves  
21 certain drugs for certain purposes?

22 A. I don't know.

23 Q. Or approves drugs for certain purposes, I should  
24 say?

25 A. I mean, I have no knowledge what exactly the FDA



1     **does, except that the little area that I just explained**  
2     **which is the FDA has certified for us to have possession of**  
3     **those drugs.**

4           Q.     The FDA or DEA?

5           A.     **The DEA rather, not the FDA.**

6           Q.     Okay. But I think you said you don't know  
7     whether the FDA has approved any of these drugs for the  
8     purpose of lethal injection?

9           A.     **Yes, that's correct.**

10          Q.     Now, when a drug is not approved for a particular  
11     purpose, are you aware of whether that drug can be used for  
12     a non-approved purpose, legally used for a non-approved  
13     purpose?

14          A.     **I have no idea.**

15                 MS. BORESI: I'm going to also object that it  
16     calls for his legal knowledge or legal opinion.

17                 MS. PILATE: I'll just state for the record, I'm  
18     not asking for legal knowledge, for medical knowledge.

19     BY MS. PILATE:

20          Q.     I'm asking you as director of the Department of  
21     Corrections that presides over executions, I'm asking you  
22     that question: Are you aware if drugs can be used for  
23     purposes that they have not been approved for?

24          A.     **I have no idea.**

25          Q.     Okay. If they are used for such purposes, do you



1 know if that violates law?

2 **A. I have no idea.**

3 Q. Have you ever heard of something called an  
4 off-label use?

5 **A. I do not know that.**

6 Q. Okay. Do you know if an off-label use requires a  
7 prescription?

8 **A. I do not know what an off-label use is.**

9 Q. Who guides you in making determinations about  
10 whether the lethal injection protocol complies with law?

11 **A. Counsel.**

12 Q. When was the last time the lethal injection  
13 protocol was reviewed?

14 **A. I don't know. That was prior to my becoming**  
15 **director.**

16 Q. Have you conducted any review of the lethal  
17 injection protocol?

18 **A. No.**

19 Q. If the Court in this case were to issue a ruling  
20 pertaining to the application of federal law in stating  
21 that any portion of the protocol or procedure used in  
22 lethal injection violated federal law, what would you do?

23 **A. Well, you're talking about a hypothetical**  
24 **situation. I believe that we do comply with the federal**  
25 **law. And having said that, if there was some adverse**



1     **decision, then I would take that under counsel's advice as**  
2     **to what would happen next.**

3           Q.     Okay. If an order was issued stating that the  
4     failure to have prescriptions violated federal law, would  
5     you take some step to bring about the writing of  
6     prescriptions for these drugs?

7           A.     I think I have the same answer to that question  
8     as I had to the previous, which is that it's a hypothetical  
9     situation. We believe we're in concert with federal law  
10    and if there was that kind of a decision, we would take it  
11    under advice of counsel.

12          Q.     Is there any reason prescriptions couldn't be  
13    written?

14          A.     The information I have is it's not necessary to  
15    write prescriptions.

16          Q.     But what I'm asking you is, is there any reason  
17    they couldn't be written?

18          A.     I have no idea.

19          Q.     Is there any impediment to the writing of  
20    prescriptions?

21          A.     It's not necessary based on the information I  
22    have.

23          Q.     I'm not asking if it's necessary. This is: Can  
24    you do it? It may not, in your mind, be necessary, but  
25    what I'm asking you is, is there any barrier or obstacle



1 that you know of to the writing of prescriptions?

2 **A. I have no idea. I just don't know.**

3 MS. PILATE: Okay. Let me make this the first  
4 exhibit.

5 (PETITIONERS' DEPOSITION EXHIBIT NO. 1 WAS MARKED  
6 FOR IDENTIFICATION BY THE COURT REPORTER.)  
7 BY MS. PILATE:

8 Q. Mr. Lombardi, I'm going to hand you Deposition  
9 Exhibit 1. And it is a document that I think has probably  
10 been produced in connection with a number of litigations.  
11 We received it in the context of discovery in this case, so  
12 you see at the bottom it's says Ringo 1234. That is an  
13 indication that it was produced in Ringo vs. Lombardi.

14 **A. Okay.**

15 Q. Now, turning to the fourth page, do you see a  
16 date of July 14, 2006?

17 **A. I do.**

18 Q. Okay. Is this document entitled Preparation and  
19 Injection of Chemicals, is this still the document that  
20 governs how executions are carried out in the Department?

21 **A. To the best of my knowledge, that's true.**

22 Q. Okay. And to your knowledge, this document has  
23 not been revised in any way?

24 **A. No.**

25 Q. Have you ever reviewed it with the idea that



1 someone should see if it needs to be revised in any way?

2 **A. I have not.**

3 Q. At present how many members are there of the  
4 execution team?

5 **A. Let's see, I believe there are four members.**

6 Q. And who are they?

7 **A. They are medical personnel and Department**  
8 **personnel.**

9 Q. Okay. What kind of medical personnel?

10 **A. There may be a physician, potentially a nurse and**  
11 **then staff.**

12 Q. What do you mean potentially a nurse?

13 **A. Well, I mean, to the best of my knowledge, there**  
14 **have been always two people present and that has been their**  
15 **titles.**

16 Q. So there's a doctor and there's a nurse?

17 **A. That's as I understand it.**

18 Q. Okay. And presently is there a doctor with the  
19 execution team?

20 **A. There is.**

21 Q. Okay. Is the doctor a he or a she?

22 MR. SPILLANE: I'm going to object to that as  
23 going within the protective order as to identifications.

24 Subject to that --

25 Well, Sue, do you want to say anything?



1 MS. BORESI: Subject to that, you can answer.

2 But we're not going to provide any identifying  
3 information with regard to any members of the execution  
4 team.

5 MS. PILATE: I'm not asking for their Social  
6 Security number. I'm not going to go any further than I  
7 did with the nurse, and I'll call him -- what is he, M3, is  
8 that how you refer to him?

9 MS. BORESI: I think that is his designation.  
10 BY MS. PILATE:

11 Q. I just want a designation here and under the  
12 protective order you can provide us that much.

13 There is a doctor assigned to the team, right?

14 **A. Yes.**

15 Q. Does this person go by the designation of M3?

16 **A. I don't recall what that designation is**  
17 **specifically.**

18 Q. Okay. Have you ever reviewed a form signed by an  
19 M2 or an M3?

20 **A. I may have. I'm not specific about it. I don't**  
21 **remember.**

22 Q. Okay. How do you refer to this person?

23 **A. In what way? I mean, I just don't refer to them.**

24 Q. Well --

25 **A. What do you mean by that?**



1 Q. -- how are we to address this person or identify  
2 this person in this deposition, because I'm going to ask  
3 questions about him, whether -- you want to just call him  
4 Doctor?

5 A. That's fine.

6 Q. Okay. Now, does the protocol require a doctor to  
7 be present?

8 A. It says a physician, nurse or emergency medical  
9 person.

10 Q. Okay. Well, I'm asking you, based on your  
11 knowledge, you're free to look at this or you can depend on  
12 your own experience with this, does the protocol require  
13 the presence of a doctor?

14 A. It doesn't have to be a physician.

15 Q. Okay. So it could be any one of those types of  
16 persons listed there?

17 A. That's as I understand it.

18 Q. Okay. Can you tell me why you need medical  
19 personnel at an execution?

20 A. As I understand, this protocol has been approved  
21 by the courts, and so it's required to have it according to  
22 the Court.

23 Q. Okay. Well, prior to this protocol being  
24 approved by the Court, you had a doctor and a nurse, right?

25 A. Yes.



1 Q. Can you tell me your understanding of why a  
2 doctor and/or a nurse need to be present?

3 A. I think the previous protocol also required that,  
4 and the same issue occurred where there was a federal  
5 lawsuit about that, to the best of my knowledge.

6 Q. Okay. Can you tell me your understanding of why  
7 a medical person or persons of some kind need to be present  
8 during an execution?

9 A. Well, to set the lines on the person and also to  
10 determine death.

11 Q. Okay. Are those the only two reasons or are  
12 there other reasons?

13 A. I can't recall any other reasons.

14 Q. Okay. Are there drugs that are given prior to  
15 the lethal injection drug?

16 A. Right. There is the opportunity for a -- the  
17 condemned to have a sedative and a doctor does administer  
18 that if necessary.

19 Q. Is it a doctor or a nurse?

20 A. Nurse.

21 Q. Okay. Is that sedative given pursuant to a  
22 prescription?

23 A. I don't know that.

24 Q. Okay. Do you know if there's a medical form that  
25 is filled out?



1           **A.    No.    I don't know that.**

2           Q.    So you've never seen a medical form?

3           **A.    No.**

4           Q.    Like a medical history form?

5           **A.    Yeah, I believe that is to occur, but I have not**  
 6 **seen that form, that I recall.**

7           Q.    Do you know who reviews that?

8           **A.    The protocol determines that, but I don't**  
 9 **remember the details of that.**

10          Q.    Do you know what the purpose of that form is?

11          **A.    No.    I don't know specifically about that.**

12          Q.    Do you know what tasks the nurse performs?

13          **A.    Not specifically.**

14          Q.    Do you know if the nurse puts in an IV?

15          **A.    I don't know that specifically.**

16          Q.    Do you know if the nurse has other nursing tasks?

17          **A.    I don't recall.    I don't know that specifically.**

18          Q.    Do you know if it's medical professionals who  
 19 have to administer the drugs that are involved here?

20          **A.    Administer?**

21          Q.    Uh-huh.

22          **A.    No.**

23          Q.    Okay.    What about dispense?

24          **A.    What do you mean by dispense?**

25          Q.    Prepare.



1           **A.    Yes, I believe the medical personnel do prepare**  
2 **the drugs.**

3           Q.    Okay.  Are they needed for that?

4           **A.    Yes, I believe that is one of their duties.**

5           Q.    So are you saying that medical personnel have to  
6 prepare these drugs, not a nonmedical person?

7           **A.    Correct, best of my knowledge.**

8           Q.    Okay.  Does it have to be a doctor?

9           **A.    No.  I don't believe that's the case.**

10          Q.    So a nurse could prepare these drugs?

11          **A.    Yes.**

12          Q.    Could it be -- could it be the nurse that's now  
13 on the team?

14          **A.    Yes, I'm sure.**

15          Q.    Okay.  Now, do you -- do you know that there are  
16 three drugs used in the execution?

17          **A.    I do.**

18          Q.    What is the purpose of the first drug?

19          **A.    I believe the purpose of the first drug is to**  
20 **render the person unconscious.**

21          Q.    Okay.  A sedative?

22          **A.    Yes.**

23          Q.    It sedates the person?

24          **A.    Yes.**

25          Q.    And used in a fairly significant dose; is that



1 right?

2 **A. Yes.**

3 Q. Does the name sodium thiopental --

4 **A. Yes, I believe that's the current drug.**

5 Q. Okay. Now, going back to the start of the  
6 process, we discussed a sedative, would that be prior to  
7 the sodium thiopental?

8 **A. Yeah, that's somewhere early in the evening, as I**  
9 **recall, if the inmate -- and it's the inmate's choice as to**  
10 **whether he would like to have that or not.**

11 Q. And the purpose of that drug is to reduce  
12 anxiety?

13 **A. You know, I'm not a medical person. I can't tell**  
14 **you exactly.**

15 Q. I'm just asking --

16 **A. I'm making assumptions.**

17 Q. -- your knowledge.

18 **A. Yes.**

19 Q. Okay. And so that is the therapeutic or medical  
20 purpose for the use of that particular medication?

21 **A. I think that's correct.**

22 Q. Okay. Now, the first drug of the three that is  
23 used in the lethal injection you said renders the person  
24 unconscious, right?

25 **A. Yes.**



1 Q. Okay. And the purpose of that, being  
2 unconscious, is to alleviate or remove pain and anxiety so  
3 the person is not aware of what's going on?

4 A. To the best of my knowledge, that's true.

5 Q. Okay. Now, what's your understanding of how that  
6 drug is prepared and administered, that drug?

7 A. To the best of my knowledge, after the physician  
8 has mixed the drug, it is administered by staff, and I  
9 think three doses with a saline solution in between to  
10 clear the lines.

11 Q. Okay. The individuals, the Department employees  
12 who are administering the drug, do they have any medical  
13 training?

14 A. Not to my knowledge, but I don't know that  
15 specifically.

16 Q. Is it basically four people carrying out the  
17 execution, two medical and two nonmedical?

18 A. That's as I understand it, yes.

19 Q. And it's your understanding that the physician  
20 mixes the drug, correct?

21 A. Yes.

22 Q. Does that involve preparing the syringe?

23 A. Yes, to the best of my knowledge.

24 Q. Do you know if anyone double-checks the  
25 physician's preparation of the syringes as the physician is



1 preparing them?

2 **A. I don't know that.**

3 Q. Do you know by what method a Department employee  
4 or employees administers this drug?

5 **A. Not specifically.**

6 Q. What's your understanding of it?

7 **A. I believe that they, in fact, push a plunger to**  
8 **inject the drug.**

9 Q. Is that into the person or into a line?

10 **A. Into a line.**

11 Q. Who trains departmental employees?

12 **A. The employees that are involved in the process?**

13 Q. Uh-huh.

14 **A. It's overseeing -- the physician or the medical**  
15 **personnel present oversee those individuals in that**  
16 **particular part of their duty.**

17 Q. Do you know who conducts the training for the  
18 execution team?

19 **A. Who conducts the training for the execution team?**

20 Q. Uh-huh.

21 **A. There is always a practice exercise that they go**  
22 **through every part of the training, that includes everybody**  
23 **that's involved in the process before an execution.**

24 Q. Okay.

25 **A. And that's overseen by the director of Adult**



1     **Institutions.**

2           Q.     And who is that?

3           **A.     Tom Clements.**

4           Q.     Is that something that you did when you were in  
5     that position?

6           **A.     Yes.   We usually had a practice exercise in**  
7     **advance.**

8           Q.     That's something you oversaw?

9           **A.     Yes, in the generalist of sense.**

10          Q.     What do you mean in the generalist of sense?

11          **A.     I wasn't everywhere and everyplace during the**  
12     **process.**

13          Q.     Who, if anyone, has trained the departmental  
14     employees in how to inject drugs into an IV line?

15          **A.     I don't know who these specific employees were**  
16     **trained by.   I just know that they were overseen by**  
17     **whatever medical staff is present.**

18          Q.     Are they trained by medical staff during a  
19     training?

20          **A.     I don't know what you mean by training.   I do**  
21     **know that they oversee the folks doing it.**

22          Q.     Okay.   What does oversee involve?

23          **A.     You know, I can't be specific about that.   I**  
24     **don't know exactly what happens.**

25          Q.     Now, do you know if individuals who have no



1 medical or nursing licensure of any kind are able, under  
2 any law, to administer drugs such as the drugs used in the  
3 lethal injection process?

4 **A. I don't know that.**

5 Q. Do you know if somebody needs to have some type  
6 of medical licensure or certification to administer any of  
7 the drugs used in the lethal injection, the process?

8 **A. I have no knowledge of any of that.**

9 Q. Who would have knowledge of that?

10 **A. I don't know.**

11 Q. I'm trying to keep up with you by taking notes,  
12 because it actually makes the deposition more efficient. I  
13 hate getting an objection that says asked and answered.  
14 And what that means is I'm asking you something I've asked  
15 you before. And so when I'm taking a couple of extra  
16 seconds in writing something down, that's an effort to  
17 keep -- for me to keep track of what I've asked you so I  
18 don't have to re-plow some ground that I've already plowed  
19 through.

20 **A. That's fine.**

21 Q. Okay.

22 **A. Sure.**

23 Q. So if you can bear with me through that. I don't  
24 usually do so much writing, but I'm trying to --

25 **A. That's fine.**



1 Q. -- be focused and efficient here.

2 If you could turn your attention again to  
3 Exhibit 1.

4 A. Uh-huh.

5 Q. I would like to start at the top with execution  
6 team members. No. 1, the execution team consists of  
7 contracted medical personnel and Department employees.

8 A. Uh-huh.

9 Q. Okay. There is no specific number required  
10 there; is that right?

11 A. Not in that sentence, no.

12 Q. Okay. Under the protocol, could it be one of  
13 each?

14 A. Excuse me?

15 Q. Under the protocol, I'm not asking about the  
16 practice, but under this protocol, would it be sufficient  
17 to have a team consisting of one medical person and one  
18 Department employee?

19 A. There's nothing that prohibits it, that I'm aware  
20 of, unless I read through here and find something  
21 different. That sentence doesn't prohibit it.

22 Q. Okay. Do you want to take a minute and look  
23 through the protocol?

24 A. No, I don't see anything in here that prohibits  
25 what you just said.



1 Q. Okay. So looking at the protocol itself, it's --  
2 what you're telling me is that the team at a particular  
3 execution could be one of each, one medical person and one  
4 nonmedical person?

5 A. **Nothing here prohibits that.**

6 Q. Okay. Under No. 2 it says, a physician, a nurse  
7 or pharmacist prepares the chemicals used during the lethal  
8 injection. Do you see that?

9 A. **Yes.**

10 Q. Has there ever been a pharmacist on the team?

11 A. **Not to my knowledge, but I was not here during**  
12 **four years and a half, so I don't know if anybody played**  
13 **that role or not.**

14 Q. Okay. Is it your understanding under the  
15 protocol that a nurse could prepare any of the drugs used  
16 in the lethal injection?

17 A. **Yes.**

18 Q. Is it your understanding under the protocol that  
19 a physician could prepare any of these drugs?

20 A. **Yes.**

21 Q. Okay. Is it your understanding that a physician  
22 or nurse could prepare any of these drugs without a  
23 prescription being written by anyone?

24 A. **Based on my previous comment, which is that we**  
25 **have -- the information that I have is that the DEA and the**



1     **Missouri Health Department has approved the possession of**  
2     **the drugs at ERDCC and are certified to use them.**

3           Q.     So your answer to that is yes?

4           **A.     Would you ask the question again, please?**

5           MS. PILATE:   Could you please read back my  
6     question?

7           THE COURT REPORTER:   "Question:   Is it your  
8     understanding that a physician or nurse could prepare any  
9     of these drugs without a prescription being written by  
10    anyone?"

11          THE WITNESS:   Yes.

12   BY MS. PILATE:

13          Q.     Okay.   And when I say any of these drugs, I mean  
14    the drugs used in lethal injection?

15          **A.     Yes.**

16          Q.     And your answer is yes to that question?

17          **A.     Yes.**

18          Q.     Okay.   Going on to Paragraph 3, a physician,  
19    nurse or emergency medical technician inserts intravenous  
20    lines.   Do you see that?

21          **A.     Yes.**

22          Q.     Okay.   Now, is it your understanding that any one  
23    of those three could insert IV lines?

24          **A.     Yes.**

25          Q.     Does that include a central line or peripheral



1 line or both?

2 **A. Whatever is being used at the time. It's any**  
3 **lines.**

4 Q. Okay. And could it be any kind of nurse?

5 **A. To the best of my knowledge, yes.**

6 Q. Okay. Do you know what type of nurse is on the  
7 execution team?

8 **A. It's a registered nurse.**

9 Q. Okay. And you believe that person is licensed or  
10 at least qualified to insert an IV line?

11 **A. Yes.**

12 Q. Okay. And that would include a central line?

13 **A. I don't know enough about the issue to say one**  
14 **way or the other about that, but to the best of my**  
15 **knowledge, yes.**

16 Q. Okay. The next thing states that the physician,  
17 nurse or an EMT monitors the prisoner. Do you see that?

18 **A. Where are you?**

19 Q. Paragraph 3.

20 **A. Yes.**

21 Q. It starts out the physician --

22 **A. Yes.**

23 Q. Okay. The first thing was insert intravenous  
24 line and then it's monitor the prisoner?

25 **A. Right.**



1 Q. Okay. And with regard to the intravenous line,  
2 that is a medical activity, right?

3 **A. Monitoring of the prisoner?**

4 Q. No. The inserting of the intravenous lines?

5 **A. Yes.**

6 Q. Okay. That's a medical activity?

7 **A. Yes.**

8 Q. What does monitoring of the prisoner involve?

9 **A. I really don't know the answer to that. I don't**  
10 **know.**

11 Q. Okay. Do you know if that is a medical activity?

12 **A. I don't know.**

13 Q. Okay. Do you know if that involves checking for  
14 consciousness at any point during the procedure?

15 **A. To the best of my knowledge, once the sodium**  
16 **thiopental is injected, then the medical person comes out**  
17 **and checks the individual --**

18 Q. Okay. So that --

19 **A. -- and makes sure they are, in fact, unconscious.**

20 Q. Okay. And that's a medical activity, right?

21 **A. Yes.**

22 Q. And do you know what they do to determine  
23 consciousness?

24 **A. I don't know specifically.**

25 Q. Okay. And then the next part of that sentence



1 says that the physician, nurse or the EMT supervises the  
2 injection of lethal chemicals by nonmedical members of the  
3 execution team?

4 **A. Correct.**

5 Q. Okay. Now, can you tell me what your  
6 understanding is of what supervises means in that sentence,  
7 the word supervises, how do they supervise them?

8 **A. Well, they oversee the person while they're doing**  
9 **it.**

10 Q. Does that mean just watching?

11 **A. Yes.**

12 Q. Does it mean guiding or providing direction?

13 **A. I have no idea specifically what happens in every**  
14 **particular case about that.**

15 Q. Okay. Under the protocol, could these activities  
16 be done by a physician or a nurse or an EMT?

17 **A. Can what be done?**

18 Q. What's listed in Paragraph 3.

19 **A. Yes.**

20 Q. Okay. So any one of those three could supervise  
21 the injection of the chemicals by a nonmedical member of  
22 the execution team?

23 **A. That's how I read this, yes.**

24 Q. Okay. Is it your understanding that the people  
25 supervising the nonmedical members of the team are



1 supervising them in tasks that they themselves could  
2 perform?

3 MR. SPILLANE: I'm going to object to the form of  
4 the question. I'm not sure what could means in that  
5 context, whether could means legally or could means they  
6 know how to do it. I'm going to object to the form of the  
7 question.

8 BY MS. PILATE:

9 Q. Okay. Is it your understanding that the persons  
10 supervising the nonmedical members of the team, whoever  
11 that is, they themselves are qualified by training and  
12 scope of their practice to do those tasks themselves?

13 A. I don't know if they are or not.

14 Q. Okay. Can you explain why someone who would not  
15 be qualified would be supervising somebody else in doing  
16 something when they themselves are not qualified to do it?

17 A. I didn't say they weren't qualified. I said I  
18 didn't know that they are.

19 Q. Well, what's your --

20 A. I mean, I -- go ahead. I'm sorry.

21 Q. Can you tell me what your understanding is?

22 A. Yes. That there is medical staff that oversee  
23 the nonmedical staff in the actual administration of the  
24 drugs.

25 Q. Okay. What I'm asking you, maybe this will be



1 more clear, how is it that these medical personnel are  
2 qualified to provide that supervisory oversight?

3 **A. Because they have knowledge of how they -- how**  
4 **drugs are to be administered.**

5 Q. Okay. So you're saying that they themselves have  
6 the skills and qualifications to do this themselves and  
7 they are merely supervising others in doing what they could  
8 or, under other circumstances, would do?

9 **A. Yes. I suppose the answer to that is yes.**

10 Q. Okay. I'm not trying to be obscure here.

11 **A. Okay.**

12 Q. So your answer is yes?

13 **A. Yes, I believe so.**

14 Q. Okay. If there was only one medical person  
15 available at a given institution -- or given execution, for  
16 whatever reason, could the execution proceed with one  
17 medical person?

18 **A. Yes.**

19 Q. Okay. And it could proceed with either the  
20 physician, the nurse or an EMT, if you have one?

21 **A. According to this protocol.**

22 Q. Okay. Turning to No. 4, do you know why it says,  
23 two Department employees inject the chemicals into the  
24 prisoner? Do they have different roles, the same role, do  
25 you know how they accomplish that?



1           **A.     I don't know specifically.**

2           Q.     Other than their involvement in executions, these  
3     departmental employees, do you know if they have any other  
4     medical or medical-type responsibilities in their jobs?

5           **A.     Not to my knowledge.**

6           Q.     They are employees of the Department of  
7     Corrections; is that right?

8           **A.     They are.**

9           Q.     And they work at a facility or facilities, I'm  
10    not going to ask you which one, but they work at a  
11    Department of Corrections facility of some kind?

12          **A.     They can, but they don't have to be.**

13          Q.     Okay. So it can be anyone either in  
14    administration or working at a facility?

15          **A.     Correct. It says departmental employees and that  
16    can mean anyone in the Department.**

17          Q.     Okay. To your knowledge, have the same  
18    departmental employees been involved in executions over the  
19    years or has that responsibility been passed around?

20          **A.     I don't know that.**

21          Q.     Do you know who's assigned to the team at  
22    present?

23          **A.     I do.**

24          Q.     And do you know if these persons have been  
25    involved in executions in the past?



1           **A. I only know about the past executions when I was**  
2 **here. And again, I have no idea about the four years I was**  
3 **gone.**

4           Q. Okay. Well, are they the same people who were  
5 involved in the past?

6           **A. Before the four years?**

7           Q. Yeah.

8           **A. I don't believe that's the case.**

9           Q. Okay. So you think they might be different?

10          **A. I think they might be, but, you know, I don't**  
11 **remember.**

12          Q. When did you leave the Department in 2005?

13          **A. February.**

14          Q. And are you aware there were other executions  
15 throughout the remainder of 2005?

16          **A. Yeah. I don't specifically remember, but I know**  
17 **executions occurred during my absence.**

18          Q. So you would be aware that you have missed some  
19 executions?

20          **A. Yes.**

21          Q. Okay. The two employees that are the team now,  
22 departmental employees, do you know if they have been  
23 involved in any executions?

24          **A. Yes, I think they have.**

25          Q. Okay. Were they involved in the execution -- the



1 one execution that took place in '09?

2 **A. Yes.**

3 Q. Have they been involved in any other executions  
4 other than that?

5 **A. I don't know that.**

6 Q. You don't know?

7 **A. No.**

8 Q. Okay. The doctor that is with the team now, do  
9 you know if he was involved in the execution that occurred  
10 in '09?

11 **A. To the best of my knowledge, yes.**

12 Q. And he's still with the execution team?

13 **A. Yes.**

14 Q. Has he been involved in any executions other than  
15 the one that occurred in 2009?

16 **A. I don't know that.**

17 Q. As far as the nurse who is involved with the  
18 execution team, do you know how long that nurse has been  
19 with the execution team?

20 **A. To my knowledge, quite sometime.**

21 Q. Would that individual have been involved with  
22 more executions than the other members of the team?

23 **A. Than the other members of the team currently?**

24 Q. Uh-huh.

25 **A. To the best of my knowledge, that would be true.**



1 Q. Okay. Can you tell me generally how the  
2 Department went about finding a doctor to join the  
3 execution team?

4 A. No, because that happened before I got here and I  
5 don't recall that.

6 Q. Okay. Do you know if this doctor is an  
7 anesthesiologist?

8 A. I believe that's the case. I don't know though.  
9 I really don't know specifically, but I think he is.

10 Q. Okay. Who would have that information?

11 A. Probably Mr. Clements.

12 Q. Who has the most contact with the execution team?

13 A. He does.

14 Q. Who is responsible for hiring or supervising  
15 members of the execution team?

16 A. He is.

17 Q. Who is responsible for training members of the  
18 execution team?

19 A. He is as well.

20 MS. PILATE: Okay. This would be a good place to  
21 take a short morning break and then we'll come back and go  
22 for another hour or so and then take a lunch break.

23 (A BREAK WAS TAKEN.)

24 BY MS. PILATE:

25 Q. We're returning to Deposition Exhibit 1. I think



1 we've been all the way through Subpart A. Let's go on  
2 to B. Preparation of chemicals, it says medical personnel  
3 prepare the lethal chemicals. Now, is it your  
4 understanding, based on the protocol, that any of the  
5 personnel listed in Subpart A, the physician, nurse or EMT  
6 or pharmacist, could prepare the chemicals?

7 **A. Yes.**

8 Q. Okay. Then it says the quantity of these  
9 chemicals may not be changed without prior approval of the  
10 department director. Is that you?

11 **A. It is.**

12 Q. Okay. Now, under what circumstances would you  
13 change the quantities?

14 **A. I wouldn't.**

15 Q. Has the Department ever considered going to a  
16 single-drug method?

17 **A. We have not. Well, I say that. We have not**  
18 **since I've been director.**

19 Q. Has anyone ever suggested a different method of  
20 execution?

21 **A. No, not during my tender as director.**

22 Q. Have any changes in the execution methods or  
23 protocol of any kind been considered since you've been  
24 director?

25 **A. No.**



1 Q. Okay. Subparagraph 2 concerns the sodium  
2 pentothal or thiopental, correct?

3 A. Yes.

4 Q. Do you know why it's prepared in four different  
5 syringes?

6 A. I really don't.

7 Q. Okay. Do you know what is done to prepare those  
8 syringes?

9 A. No.

10 Q. Okay. Going to Paragraph 3 with the saline  
11 solution, what is the purpose of the saline?

12 A. I don't have any knowledge of that. I'm making  
13 an assumption that it is to clear the lines, but I really  
14 don't know that.

15 Q. Okay. Paragraph 4 then makes reference to  
16 60 milligrams of pancuronium bromide. Do you know what  
17 pancuronium bromide is?

18 A. I don't know specifically, although I've been  
19 informed that the purpose of is it to stop respiration.

20 Q. Do you know if it has paralyzing affects?

21 A. I don't know anything more than that.

22 Q. Okay. Who told you it stops respiration?

23 A. I don't recall.

24 Q. Have you ever heard that drug referred to as a  
25 paralytic?



1           **A.    No.  No, I haven't.**

2           Q.    If that drug stops respiration, then do you know  
3 why a third drug would be given?

4           **A.    The third drug purpose is to stop the heart, to**  
5 **the best of my knowledge.**

6           Q.    Do you know how the second drug stops  
7 respiration?

8           **A.    Do I know how it stops respiration, no.**

9           Q.    Do you know if it's a muscle relaxant?

10          **A.    I don't know anything more than what I said.**

11          Q.    Do you know why this second drug is given instead  
12 of just going for a drug that would stop the heart?

13          **A.    I do not.**

14          Q.    Do you know if it would be effective to go  
15 straight from Drug No. 1 to Drug No. 3?

16          **A.    I have no idea.**

17          Q.    Do you know if it would be effective to stop at  
18 Drug No. 2?

19          **A.    No, I don't know that.**

20          Q.    So you have no knowledge?

21          **A.    No, I don't.**

22          Q.    Okay. Do you know if it would be effective to  
23 stop at Drug No. 1?

24          **A.    No, I do not.**

25          Q.    Is it your understanding that the purpose of Drug



1 No. 1 is simply to induce unconsciousness?

2 **A. That's as I understand it.**

3 Q. Is the drug that is listed in Paragraph 6,  
4 potassium chloride, is that the drug, to your  
5 understanding, that stops the heart?

6 **A. Yes.**

7 Q. Okay. Do you know how long it takes to do that?

8 **A. I do not.**

9 Q. Do you know anything about whether the first drug  
10 is a long-acting or short-acting drug?

11 **A. I don't know any more details than what I've**  
12 **already shared with you about those drugs.**

13 Q. Do you know anything else about those drugs other  
14 than what is written here?

15 **A. No.**

16 Q. Do you know what -- turning to Paragraph 8, do  
17 you know what Syringes 1A, 2A and 3A and 4A are for?

18 **A. It says each containing 1.25 grams thiopental. I**  
19 **mean, it reads what it reads there.**

20 Q. Okay.

21 **A. Yes.**

22 Q. Do you know why you need a -- or why there is a  
23 provision here for a second set of syringes with sodium  
24 thiopental?

25 **A. I do not know.**



1 Q. Okay. Turning to the Subpart C, it says  
2 intravenous lines.

3 A. Uh-huh.

4 Q. And again, that says medical personnel determine  
5 the most appropriate locations for intravenous lines. Do  
6 you see that?

7 A. I do.

8 Q. Okay. And it doesn't specify a particular  
9 medical personnel, does it?

10 A. It does not.

11 Q. So to your knowledge, could that be the  
12 physician, the nurse or the EMT?

13 A. Yes, to the best of my knowledge, that's the  
14 case.

15 Q. Okay. Do you know what a primary line is and a  
16 secondary line?

17 A. Other than what I read here, no.

18 Q. Okay. Is it your understanding that any one of  
19 the medical personnel could perform any of the activities  
20 listed in this paragraph?

21 A. Yes, I believe that's so.

22 Q. Okay. Turning to Subparagraph D where it says  
23 monitoring of the prisoner?

24 A. Yes.

25 Q. And where it says medical personnel attach the



1 leads from the electrocardiograph to the prisoner's chest  
2 and then check the electrocardiograph to determine it is  
3 functioning, could that be the doctor, the nurse or the  
4 EMT?

5 **A. Any of the medical personnel subscribed, yes.**

6 Q. Okay. And gurney is positioned so that medical  
7 personnel can observe the prisoner's face directly or with  
8 the aid of a mirror?

9 **A. Yes.**

10 Q. Do you see that?

11 **A. Yes.**

12 Q. And could that be any of the medical personnel?

13 **A. Yes.**

14 Q. And No. 3, medical personnel monitor the  
15 electrocardiograph and the prisoner during the execution.  
16 Could that be any of the medical personnel?

17 **A. As I understand it, yes.**

18 Q. Okay. Are some of the tasks that the medical  
19 personnel or the medical person are performing during the  
20 execution traditional medical tasks in terms of trying to  
21 calm anxiety with a sedative and make the prisoner  
22 comfortable and prepared for the procedure?

23 **A. Yes, I believe they do play those roles. Yes, I**  
24 **do.**

25 Q. Okay. Now, we're down to E, administration of



1 chemicals, upon order of the Department director, would  
2 that be you?

3 **A. Yes.**

4 Q. Okay. And then it says the chemicals are  
5 injected into the prisoner by execution team members under  
6 the observation of medical personnel. Does that mean  
7 nonmedical personnel do the injection?

8 **A. Yes.**

9 Q. Okay. Although this doesn't specify, it says  
10 execution team members who could be medical or nonmedical,  
11 right?

12 **A. Well, protocol indicates that the nonmedical**  
13 **staff do that.**

14 Q. Okay. But that sentence may be a little less  
15 clear; is that right?

16 **A. Depends on how you want to interpret it, I**  
17 **suppose.**

18 Q. Okay. Do you see at the top of the next page,  
19 Paragraph 2, where it says the thiopental is injected from  
20 Syringes 1, 2, 3 and 4?

21 **A. Uh-huh.**

22 Q. Okay. Do you know if medical personnel are  
23 required to note the time that they inject each syringe?

24 **A. I believe that's the case, but I'm not**  
25 **specifically positive, but I think that is the case.**



1 Q. Okay. Under three, Paragraph 3, it says before  
2 the second and third chemicals are injected, medical  
3 personnel physically examine the prisoner to confirm he is  
4 unconscious?

5 A. Yes.

6 Q. Do you see that?

7 A. Yes.

8 Q. And again, could that be any of the medical  
9 personnel?

10 A. Yes, to my knowledge.

11 Q. Okay. And then again, under Paragraph 4, do you  
12 see another reference to, if necessary, more syringes being  
13 injected and the medical personnel confirming the prisoner  
14 is unconscious as stated in the paragraph above?

15 A. Yes.

16 Q. Okay. And again, that could be any of your  
17 medical personnel?

18 A. Yes.

19 Q. In Paragraph 5 it states, after confirming that  
20 the prisoner is unconscious, the second and third chemicals  
21 are injected provided at least three minutes have elapsed  
22 since the execution team members started injecting the  
23 thiopental which rendered the prisoner unconscious. Do you  
24 see that?

25 A. Yes.



1 Q. Do you know what the reason is for the  
2 three-minute time span there?

3 A. I do not.

4 Q. No. 6, it says the pancuronium bromide in Syringe  
5 No. 6 is injected into the prisoner. Do you see that?

6 A. I do.

7 Q. And do you have any familiarity with what the  
8 amount of 60 milligrams would accomplish?

9 A. No, I do not.

10 Q. Do you know anything about the pancuronium  
11 bromide other than what you have previously told us?

12 A. I do not.

13 Q. Okay. Then Paragraph 8, it states the potassium  
14 Chloride in Syringes 8 and 9, parentheses, 240  
15 milliequivalents is injected. Do you see that?

16 A. I do.

17 Q. Do you have any knowledge of the significance of  
18 that dose?

19 A. I do not.

20 Q. Okay. Do you know anything about the potassium  
21 chloride other than what you have previously told us?

22 A. I do not.

23 Q. Paragraph 10, if the electrical activity of the  
24 prisoner's heart does not cease within five minutes,  
25 additional potassium chloride is injected to cause death.



1 Do you see that?

2 **A. I do.**

3 Q. Okay. Do you know if there is some possibility  
4 that 240 milliequivalents would not accomplish death?

5 **A. I do not.**

6 Q. Then it says in No. 11, when all electrical  
7 activity of the heart as shown by the electrical ends --  
8 excuse me. Let me start that again.

9 When all electrical activity of the heart ends as  
10 shown by the electrocardiogram, medical personnel pronounce  
11 death. Do you see that statement?

12 **A. I do.**

13 Q. And does that reference to medical personnel  
14 refer to any of the medical members of the team as we've  
15 previously discussed?

16 **A. To my knowledge.**

17 Q. Okay. So any of them could do that?

18 **A. Yes.**

19 Q. Okay. Turning to the next page, do you see the  
20 Subpart F, documentation of chemicals?

21 **A. Yes.**

22 Q. Okay. It says, No. 1, medical personnel properly  
23 dispose of unused chemicals?

24 **A. Yes.**

25 Q. Okay. And could that be any member -- medical



1 member of the team?

2 **A. Yes.**

3 Q. How are unused chemicals disposed of?

4 **A. I do not know.**

5 Q. In Paragraph 2, there's a reference to a sequence  
6 of chemicals form, have you ever seen that?

7 **A. I don't recall seeing it.**

8 Q. Do you know -- well, strike that.

9 You have no familiarity with that form; is that  
10 right?

11 **A. I don't remember it, no.**

12 Q. Okay. I think that's all I have on that protocol  
13 or at least on that exhibit.

14 **A. Can I take a break for just one minute?**

15 Q. Sure.

16 (A BREAK WAS TAKEN.)

17 BY MS. PILATE:

18 Q. Okay. Going back earlier to something you said,  
19 you said the Department had some kind of approval from the  
20 DEA?

21 **A. That's as I understand it.**

22 Q. Okay. What is your understanding of what that  
23 approval is?

24 **A. It's the certification that allows us to have**  
25 **possession -- allows the facility to have possession of**



1     **those drugs to use in a variety of ways.**

2           Q.     Okay.  Let's see if I can -- make sure I've got  
3     this down.  The DEA certification allows a facility to have  
4     possession of the drugs to use in a variety of ways; is  
5     that correct?

6           **A.     That's as I understand it.**

7           Q.     Okay.  Does this certification apply to all drugs  
8     or just those used in lethal injection?

9           **A.     I don't know about all drugs, but I know it**  
10    **applies to the lethal injection drugs.**

11          Q.     Does it apply to all three drugs?

12          **A.     To the best of my knowledge.**

13          Q.     And if the facility has this certification, does  
14     any individual medical person have to have any additional  
15     certification?

16          **A.     I'm not aware of that.**

17          Q.     Now, returning to the doctor on the team, you  
18     thought he was an anesthesiologist, but you weren't sure?

19          **A.     Yes, I think he is an anesthesiologist.**

20          Q.     Do you know if he's board certified as an  
21     anesthesiologist?

22          **A.     I don't know the details of his background.**

23          Q.     Have you ever seen a license or certificate of  
24     his?

25          **A.     No, I have not.**



1 Q. Okay. Do you know if he has any kind of  
2 registration, license or certification with the DEA?

3 A. I have no idea.

4 Q. Do you know whose responsibility it would be, if  
5 anyone, to know that?

6 A. I believe the director of institutions at the  
7 present time has knowledge of his background.

8 Q. Is that Mr. Clements?

9 A. Yes.

10 Q. Now, you also mentioned the Missouri Health  
11 Department, what is the role of the Missouri Health  
12 Department in this?

13 A. To my knowledge, they also do some type of  
14 certification for the use of the drugs, but I don't know in  
15 great detail about that.

16 Q. Okay. So you think they're involved in issuing  
17 some kind of approving document, but you don't know what  
18 that is?

19 A. Yes, exactly.

20 Q. Do you know if it is disclosed or has been  
21 disclosed to either the DEA or the Missouri Health  
22 Department what the drugs are used for?

23 A. I do not know that.

24 Q. Is it your understanding that if these approvals  
25 are obtained from the DEA and the Missouri Health



1 Department, then it doesn't matter as to any certification  
2 of any individual practitioner, that they don't need  
3 anything additional?

4 **A. That is my understanding, but I don't know that**  
5 **specifically.**

6 Q. Okay. And whose job would it be to know that?

7 **A. Know what?**

8 Q. Know whether or not the individuals would need  
9 any of their own certifications?

10 **A. Either Mr. Clements or our counsel.**

11 Q. Okay. Has anyone ever advised you about that?

12 **A. No. You know, the issue is that all the protocol**  
13 **was established before I came here, and it was accepted, as**  
14 **I understood, by the Court, and so we just moved forward**  
15 **when I came here with the same protocol.**

16 Q. So if a court looking at any portion of this  
17 protocol said, for instance, that this particular paragraph  
18 or subparagraph violated a particular law, is that  
19 something that would be addressed?

20 **A. I think I talked about that before. That's a**  
21 **hypothetical and, you know, we would take it under -- we**  
22 **think we are in concert with the law and we would take that**  
23 **under the advice of counsel.**

24 Q. Okay. Well, I understand that you think you're  
25 in compliance with the law, but if the Court were to issue



1 a ruling to the contrary as to any point, would the  
2 Department take steps to bring itself into compliance with  
3 the law?

4 **A. Whatever the Court ruled, we would take it under**  
5 **counsel's advice as to what would happen next.**

6 Q. Is there any reason why, for instance, the  
7 Department could not have a doctor write prescriptions if  
8 the Court said that law required that?

9 **A. That's a hypothetical and I have the same exact**  
10 **answers as I had previously.**

11 Q. Well, it's -- I'm asking you a little bit  
12 different question. I'm saying is there any reason the  
13 Department could not have prescriptions written for these  
14 drugs?

15 **A. We believe it's not necessary based on what I've**  
16 **said before about the certification from DEA.**

17 Q. But what I'm asking you is: Could it be done?

18 **A. I have no idea. It's not necessary. You're**  
19 **asking a hypothetical again, could it be done, in my**  
20 **estimation.**

21 Q. Do you know of any reason it could not be done?

22 **A. Again, I go back to the fact that we don't**  
23 **believe it's necessary.**

24 Q. No. I understand that. But that's not what I'm  
25 asking. Sitting here today, can you point to anything that



1 would prevent the issuance of prescriptions?

2 **A. It's not necessary. I go back to what I said**  
3 **before. I mean, it's a hypothetical.**

4 Q. But that's not my question. I'm asking you if  
5 you're aware of any fact or circumstance that would prevent  
6 the writing of prescriptions?

7 **A. I have no idea about that issue.**

8 Q. Okay.

9 MS. PILATE: I need a sticker.

10 (PETITIONERS' DEPOSITION EXHIBIT NO. 2 WAS MARKED  
11 FOR IDENTIFICATION BY THE COURT REPORTER.)  
12 BY MS. PILATE:

13 Q. I'm going to hand you a document that I've marked  
14 as Deposition Exhibit 2 and ask you if you've seen that  
15 before?

16 **A. I have.**

17 Q. And what is this, please?

18 **A. This is the interrogatory on this particular case**  
19 **and my responses.**

20 Q. Okay. Is this a document that -- in which you  
21 prepared the answers yourself, or did someone else prepare  
22 them and you reviewed them and signed off on them?

23 **A. I prepared it in concert with counsel.**

24 Q. Could you please turn to Interrogatory Answer  
25 No. 1?



1           **A.     Okay.**

2           Q.     Do you see No. 1?

3           **A.     I'm getting there.   Here we go.**

4           Q.     Okay.   Do you see at the bottom of the page that  
5     there's an objection to No. 1.   And then if you turn the  
6     page, there is an answer where it states, upon information  
7     and belief I believe the Department of Corrections is  
8     already acting in accordance with federal law.   Do you see  
9     that?

10          **A.     Yes.**

11          Q.     Do you know what federal law the Department is  
12     acting in accordance with?

13          **A.     Whatever the previous case law has been on this**  
14     **particular instance.   No, I don't know the specific law**  
15     **that I can state it, no.**

16          Q.     Okay.   Do you know if the Department is acting in  
17     accordance with State law?

18          **A.     To the best of my knowledge, yes.**

19          Q.     Okay.   It then says, the Department of  
20     Corrections will seek legal advice of its general counsel  
21     in the Attorney General's Office to determine an  
22     appropriate course of action after the Court rules.   Do you  
23     see that?

24          **A.     I do.**

25          Q.     Okay.   Would you agree that that's a different



1 answer than stating the Department of Corrections would not  
2 take any action to change its protocol?

3 **A. Excuse me?**

4 Q. Okay. Let me see if I can make it a little  
5 simpler here.

6 In this answer here would you agree that you are  
7 not simply shutting down the possibility of making a  
8 change, you're not saying, absolutely the Department of  
9 Corrections will make no changes and do nothing regardless  
10 of what the Court says, you agree with that?

11 **A. Yes.**

12 Q. Okay. You're not saying that?

13 **A. Now you have me confused. I'm not saying what?**

14 Q. What I just said.

15 **A. Let me try to answer what you just said. If the**  
16 **Court found adversely to us in terms of how we see it, then**  
17 **we would take that on to advice of counsel. And no, I**  
18 **would not rule out a change providing that this is --**  
19 **counsel and the Department determined there should be a**  
20 **change.**

21 Q. Okay.

22 **A. Okay?**

23 Q. That's fine. That's the only question I wanted  
24 you to answer there.

25 **A. Okay.**



1 Q. Okay. Let's go on to No. 2. I asked you about  
2 members of the -- or the current members of the execution  
3 team. Do you see that?

4 A. Uh-huh.

5 Q. Okay. We've got Medical Team Member M2,  
6 contracted medical member; Medical Team Member M3,  
7 contracted medical member. Is it your understanding that  
8 that's a doctor and a nurse?

9 A. Yes, to the best of my knowledge.

10 Q. Okay. And the nonmedical team members, NM1 and  
11 NM2 are the people that we previously were discussing?

12 A. Yes.

13 Q. Okay. And they are the people who are  
14 responsible for actually injecting the drugs into the  
15 lines; is that right?

16 A. Correct.

17 Q. And at present the Department of Corrections has  
18 two of those people on the team?

19 A. Yes.

20 Q. Okay. Okay. Turning to No. 4.

21 A. No. 4?

22 Q. Yeah.

23 A. Okay.

24 Q. If you could please take a second and review that  
25 question and that answer, I want to ask you a couple of



1 questions about it.

2 **A. Okay. Yes.**

3 Q. Okay. Now, this is a question -- I'll read the  
4 question.

5 Are the person(s) identified in response to  
6 No. 3(d), which asked about execution team members licensed  
7 or registered under federal or state law to administer the  
8 lethal injection drugs. Do you see that?

9 **A. I do.**

10 Q. Okay. Do you agree that the response talks  
11 simply about the certificates held by the facility, the  
12 ERDCC?

13 **A. If you go to the next page, it says the**  
14 **institution team members are covered under the above**  
15 **registration as agents of the Missouri Department of**  
16 **Corrections, yes.**

17 Q. Okay. So it's your understanding that any  
18 registration, certificate or licensure held by any  
19 individual is irrelevant because everybody is covered by  
20 the certificate that is noted here in response to No. 4?

21 **A. Yes.**

22 Q. That's your answer?

23 **A. Yes.**

24 Q. Okay. Okay. Could you please review No. 5?

25 **A. Okay.**



1 Q. Okay. Now, you would agree that this  
2 interrogatory asks about persons licensed by law to  
3 administer, dispense or prescribe the drugs used in a  
4 lethal injection, correct?

5 A. Yes.

6 Q. Okay. And this asked about the type of license  
7 held and what the license authorizes the license holder to  
8 do, et cetera. Do you agree with that?

9 A. Correct.

10 Q. And you would agree that your answer stated that  
11 the certification held by the ERDCC with the Department of  
12 Justice slash DEA was the authority that the Department is  
13 proceeding under and that no further authority was needed  
14 to prescribe or dispense these drugs?

15 A. I do.

16 Q. Is that what you're saying?

17 A. Yes.

18 Q. Okay. So any other certification or license or  
19 registration is irrelevant to the ability of any individual  
20 to prescribe, administer or dispense these drugs; is that  
21 right?

22 A. Yes, it's not necessary based on the law that we  
23 understand.

24 Q. Okay. So that's your answer?

25 A. Yes.



1 Q. So nothing beyond the certificate held by the  
2 facility is necessary in any way to prescribe or dispense  
3 these drugs, is that what you're saying?

4 A. A prescription is not necessary, but the use of  
5 it is covered by this.

6 Q. Okay. Well, what I'm asking in No. 5, I'm asking  
7 about administering, dispensing or prescribing. Do you see  
8 Line 2 of Interrogatory No. 5?

9 A. Yes.

10 Q. Okay. And are you saying here that the  
11 certificate held by the ERDCC covers all of these  
12 activities, administering, dispensing and prescribing, with  
13 respect to each of the drugs used in the lethal injection  
14 process?

15 A. Yes.

16 Q. And that no further licensure, certification or  
17 registration is needed by any individual person?

18 A. Yes.

19 Q. Okay. Okay. And looking at No. 6, do you see  
20 where that interrogatory is?

21 A. Yes.

22 Q. Asking to identify all members of the execution  
23 team, if any, who are registered to dispense sodium  
24 pentothal, a Schedule III controlled substance, and state  
25 whether the person is physically present during the



1 execution. Do you see what the answer is there, see  
2 answers to Interrogatories 3a, 4 and 5?

3 **A. Right.**

4 Q. And are you saying in your answer to this that  
5 the certification held by the facility covers the  
6 dispensing of the sodium pentothal and no further  
7 registration, license or certificate is needed by any  
8 individual person?

9 **A. Yes.**

10 Q. Okay.

11 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

12 BY MS. PILATE:

13 Q. Okay. Going over Interrogatory No. 7, if a  
14 member of the execution team is registered to dispense  
15 Schedule III controlled substances, to what degree does  
16 that person supervise or direct medical and nonmedical  
17 personnel to inject the drugs? Do you see that?

18 **A. Yes.**

19 Q. Okay. The answer is, medical team members of the  
20 execution team observe the nonmedical team members as they  
21 inject the prisoner with the lethal injection chemicals.

22 **A. Yes.**

23 Q. Okay. I can't really -- the answer does not  
24 address something, so I'm just going to ask you here, are  
25 you saying that any medical team member can observe or



1 supervise any nonmedical team member and that everybody is  
2 covered by the facility's certification and it does not  
3 matter if that individual member is registered to dispense  
4 Schedule III controlled substances?

5 **A. Yes.**

6 Q. Okay. No. 8, identify all persons currently  
7 responsible for purchasing or procuring the lethal  
8 injection drugs. And Martha Pritchett is listed, how many  
9 years has she done that?

10 **A. I have no idea.**

11 Q. Okay. Do you have any knowledge of the  
12 purchasing or procurement process for lethal injection  
13 drugs?

14 **A. I really don't.**

15 Q. Do you know if they are bought wholesale or  
16 retail?

17 **A. I don't have detail about that. I don't**  
18 **remember.**

19 Q. Do you know if they are bought in state or out of  
20 state?

21 **A. I think there has been both.**

22 Q. Do you know if in the process of purchasing the  
23 drugs, that the purpose of for which the drugs are  
24 purchased needs to be disclosed?

25 **A. I have no information if that's the case, no. I**



1     **don't know that, no.**

2           Q.     Okay. No. 9 asks for all licenses held by any  
3     Department of Corrections facility that relate to the  
4     purchase or procurement of the lethal injection drugs.  
5     Okay. And in your answer you reference me back to the  
6     answers to Interrogatories 4 and 5. Do you see that?

7           **A.     Yes, I do.**

8           Q.     And does that mean that for the purchase and  
9     procurement that what the Department is relying on is the  
10    facility license held by the ERDCC?

11          **A.     Correct.**

12          Q.     Okay. No. 10 asks, identify all persons involved  
13    with drafting, reviewing or promulgating the Department of  
14    Corrections' current execution protocol. And you state  
15    here you lack personal knowledge?

16          **A.     I do.**

17          Q.     Okay. Under the civil procedure rules, you have  
18    some obligation to conduct inquiry and it looks like you  
19    did so, and there is a further answer there. Do you see  
20    that?

21          **A.     Right.**

22          Q.     And you state, upon information and belief that  
23    you believe former Director Larry Crawford and former  
24    General Counsel C. Daniel Gibson, worked closely with the  
25    Attorney General's Office in drafting the protocol. Do you



1 see that?

2 **A. I do.**

3 Q. Okay. Do you know if an individual named Michael  
4 Pritchett with the Attorney General's Office was involved  
5 in the drafting?

6 **A. No, I don't know specifically. Don't know who it**  
7 **was.**

8 Q. You also mentioned Tom Clements here. Do you  
9 believe he was involved with the drafting?

10 **A. As it states here, incorporating the protocol**  
11 **into Department procedure.**

12 Q. Who do you believe would be most knowledgeable  
13 about how the protocol was drafted?

14 **A. I think the individuals that are listed here,**  
15 **Crawford or Gibson or somebody in the Attorney General's**  
16 **Office or a combination of those folks.**

17 Q. Okay. Have you ever heard of an individual named  
18 Mark Dershwitz, D-e-r-s-h-w-i-t-z?

19 **A. No.**

20 Q. You don't know who he is?

21 **A. No.**

22 Q. Okay. Turning to No. 11, it asks about the FDA,  
23 whether it's reviewed and approved these drugs. Do you see  
24 that?

25 **A. I do.**



1 Q. Okay. And did you personally make inquiry to  
2 obtain your answer for that?

3 A. **This was provided by counsel for me.**

4 Q. Okay. Did you make any contact with Annamarie  
5 Kempic?

6 A. **I did not.**

7 Q. Okay. Would you agree that this states here that  
8 these drugs are not approved for use in lethal injections?

9 A. **Yes.**

10 Q. Now, if a drug is not approved for a particular  
11 purpose, do you know anything about what needs to be done  
12 in order for that drug to be legally used?

13 A. **I do not.**

14 Q. No. 12 asks for suppliers and five are listed, do  
15 you have any personal knowledge of any of them?

16 A. **I don't.**

17 Q. Turning to No. 13, I -- we asked for the identity  
18 of the manufacturers of lethal injection drugs. Do you see  
19 that?

20 A. **I do.**

21 Q. Have you ever heard of a company named Hospira?

22 A. **Who?**

23 Q. Hospira, H-o-s-p-i-r-a.

24 A. **I -- no, I not know that company.**

25 Q. Okay. No. 14, you were asked about whether the



1 Department of Corrections had considered other methods of  
2 execution or other protocols?

3 **A. Yes.**

4 Q. And you state that during the time you've been  
5 director, the Department has not considered returning to  
6 execution by lethal gas, correct?

7 **A. Correct.**

8 Q. And no longer has the ability to carry out  
9 executions in that manner?

10 **A. Correct.**

11 Q. And to your knowledge, there has not been any  
12 effort to change the current protocol with regard to lethal  
13 injection; is that right?

14 **A. Correct.**

15 Q. Is that correct?

16 **A. Yes, ma'am. Yes.**

17 Q. Now, we talked earlier about sedatives are used  
18 in the -- let's back up a minute, because that opens up a  
19 whole new thing.

20 I wanted to ask you one question about the DEA  
21 and the Missouri Health Department. Do you know where you  
22 obtained the knowledge that the registration or  
23 certification from the DEA was sufficient to cover the acts  
24 of execution and lethal injection here?

25 **A. From counsel.**



1 Q. So to your knowledge, what the Department is  
2 relying on is No. 1, the DEA certification, and secondly,  
3 some type of approval from the Missouri Health Department;  
4 is that correct?

5 A. Correct.

6 Q. Okay. And is there anything else that you know  
7 about those two things other than what I've already asked  
8 you?

9 A. No, there is not.

10 Q. Okay. Now, we discussed earlier the fact that a  
11 sedative was sometimes given prior to the lethal injection  
12 drugs; is that right?

13 A. We did.

14 Q. Okay. Do you know why a sedative is not  
15 mentioned in this July 2006 protocol?

16 A. I don't. It is not a requirement. It is for the  
17 offender, as I understand it, if he should request it, it's  
18 available to him.

19 Q. Okay. Now, is the purpose of this sedative -- I  
20 think we talked earlier, it was to reduce anxiety?

21 A. Yeah, it is not to carry out the execution. It  
22 is to assist the inmate if he wants it to reduce anxiety,  
23 to the best of my knowledge.

24 Q. Okay. To assist the inmate, correct?

25 A. Pardon me?



1 Q. To assist the inmate; is that what you said?

2 A. Yes.

3 Q. Okay. The answer to this may seem obvious, but  
4 why does the Department not just jump to -- skip Chemical  
5 No. 1 or Drug No. 1 of the three-drug sequence and just go  
6 to Drug No. 2 and Drug No. 3, why use the sodium  
7 thiopental?

8 A. This is the protocol that we adopted from other  
9 agencies way back in the beginning when we started it. It  
10 seemed to be the logical way to do it. All the physicians  
11 that were involved seemed to be -- concurred with it, that  
12 I remember.

13 Q. Okay. So that was medical advice?

14 A. It was basically based on what the other  
15 jurisdictions were using at the time and were doing so  
16 successfully.

17 Q. Okay.

18 A. And we adopted that protocol.

19 Q. Now, what advantage would there be to having  
20 someone receive sodium thiopental? What is the purpose of  
21 somebody being unconscious?

22 MS. BORESI: Objection. Asked and answered.

23 THE WITNESS: Puts them unconscious with -- you  
24 mean, what is the purpose?

25 BY MS. PILATE:



1 Q. Uh-huh.

2 A. To put them unconscious.

3 Q. Okay. So you wouldn't just jump to Chemical  
4 No. 2 or Chemical No. 3 while someone was awake?

5 A. Yeah. I've already stated that we adopted that  
6 protocol and it was successful.

7 Q. Has the Department ever tried to recruit a  
8 pharmacist?

9 A. I don't know about the years I was gone. I don't  
10 recall it during the time I was here.

11 Q. Do you know if the Missouri Department of  
12 Corrections has ever advised any other jurisdiction in how  
13 to conduct executions?

14 A. No, we haven't advised, but there have been other  
15 jurisdictions, I believe, that have come and observed.

16 Q. And who have those been?

17 A. The Federal Bureau of Prisons came once.

18 Q. Okay. Do you know when that was?

19 A. Oh, gosh, no. It was years ago. That's the only  
20 ones that I recall right now.

21 Q. Okay.

22 A. There may have been some during my absence.

23 Q. Do you know if the Missouri Department of  
24 Corrections has provided any written information to -- upon  
25 request to any other jurisdiction, that is, either



1 establishing or revising an execution scheme?

2 **A. Yes, I believe we have in the past. You're going**  
3 **to ask me what jurisdictions, and I'm not going to remember**  
4 **that.**

5 Q. Have you ever been at an execution team training?

6 **A. I -- talking about the actual execution team?**

7 Q. Uh-huh.

8 **A. No.**

9 Q. Okay. Do you know who attends those?

10 **A. I believe Mr. Clements does, but I'm really not**  
11 **sure about that.**

12 Q. Okay. Who does Mr. Clements report to?

13 **A. Me.**

14 Q. Have you ever asked him about training?

15 **A. No. Well, you know, there have been successful**  
16 **executions that have gone on during my absence, so I felt**  
17 **like I trusted those that were subordinates, including him,**  
18 **he's a very trustworthy individual to assure that things**  
19 **are correct.**

20 Q. Okay. Have you done anything to look into or  
21 oversee the execution process since you've become director?

22 **A. I was present during the execution and I also was**  
23 **there during the -- during the walkthrough in advance of**  
24 **that execution process.**

25 Q. And I'm sorry, during the Skillicorn,



1 S-k-i-l-l-i-c-o-r-n, were the lethal injection drugs  
2 administered by Department employees?

3 **A. To the best of my knowledge they were.**

4 Q. Were you there?

5 **A. Was I there where? I was in the conference room**  
6 **in connection with the governor's office. I was not in the**  
7 **execution chamber.**

8 Q. Okay. So you didn't visually observe the  
9 execution as it occurred?

10 **A. No, I did not.**

11 Q. Do you have any knowledge of what type of  
12 supervision during that execution was supplied to the  
13 nonmedical members of the team by the medical personnel?

14 **A. They were all present.**

15 Q. Okay. Do you know of anything else?

16 **A. No.**

17 Q. And you weren't personally there watching it?

18 **A. No.**

19 Q. What is the walkthrough that is done, what do you  
20 mean by that?

21 **A. It's actually a practice exercise. There are**  
22 **opportunities for external and internal security people to**  
23 **review their role. There are staff that play the parts of**  
24 **different witnesses, et cetera, et cetera, just to make**  
25 **sure that people are knowledgeable of exactly what to do,**



1     because of the fact that the executions happen in fairly  
2     large time spans between one another, it's important for  
3     people to know what they are supposed to do. That's why we  
4     do that.

5           Q.     Okay. How many people participate in these  
6     walkthroughs?

7           A.     Fifty, maybe more.

8           Q.     So it's like --

9           A.     It's everybody that has a role.

10          Q.     Like a big dress rehearsal?

11          A.     It is. Well, your words, yes.

12          Q.     You --

13          A.     Practice exercise.

14          Q.     Okay. Practice session with everybody?

15          A.     Yes.

16          Q.     And is this the day before?

17          A.     No. It's usually weeks before.

18          Q.     Weeks before?

19          A.     Uh-huh.

20          Q.     When was the last time a practice session was  
21     held?

22          A.     Before the Skillicorn execution.

23          Q.     So none recently?

24          A.     No.

25          Q.     Do you wait until the date is set?



1           **A.    Yes, usually.**

2           Q.    In terms of the goals to be met during an  
3 execution -- I mean, obviously it's supposed to have the  
4 end result of the inmate is dead, right?

5           **A.    Correct.**

6           Q.    Okay. But it has to happen in a particular way.  
7 You've got witnesses and your goals for them and there's  
8 security and goals for how that is carried out. Can you  
9 describe for me in general terms, and then I'll ask some  
10 more specific questions, what you expect in terms of how an  
11 execution is carried out?

12          **A.    Well, I expect everybody to act as professionally**  
13 **as possible with as much dignity as possible for all the**  
14 **witnesses and the offender. I mean, those are general**  
15 **goals and that it happens without incident. That's why we**  
16 **do the practice exercise.**

17          Q.    Okay. So is there a goal of -- I think you used  
18 the word dignity, right?

19          **A.    I did.**

20          Q.    Okay. So you want the proceeding to be dignified  
21 for the witnesses?

22          **A.    Everybody.**

23          Q.    Okay. When you say everybody, that includes the  
24 witnesses?

25          **A.    Of course.**



1 Q. Okay. And that would be the witnesses for the  
2 individual being executed, right?

3 A. Yes.

4 Q. Okay. And the witnesses who are associated with  
5 the case and the crime for which the individual is being  
6 executed, right?

7 A. You mean the State's witnesses?

8 Q. Yeah, State's witnesses.

9 A. Yes, the State's witnesses and the victim's  
10 witnesses.

11 Q. Okay. And are there also witnesses from the  
12 Department of Corrections?

13 A. Yes, because they are -- there are people who  
14 take care of that -- those groups of witnesses and are  
15 present during the process.

16 Q. When you say dignified, what do you mean by that  
17 in terms of you want the process to be dignified?

18 A. I mean, serious, the most professional possible,  
19 that's what I mean by that.

20 Q. Okay. You don't want anything to go wrong during  
21 the process?

22 A. Of course not.

23 Q. Have you heard of elsewhere, botched executions?

24 A. Yes, I have heard the term.

25 Q. Okay. And what does that term mean to you?



1           **A.     That there's a difficulty with the execution**  
2 **process itself.**

3           Q.     Okay.  Things don't go right?

4           **A.     Your words, yeah.**

5           Q.     Well, I'm asking you.

6           **A.     Yeah, something happened.**

7           Q.     Something doesn't go right?

8           **A.     Something of magnitude has gone the way it**  
9 **shouldn't or whatever.**

10          Q.     Okay.  And does that mean in some cases that the  
11 inmate would not be executed within the expected time  
12 frame?

13          **A.     It could.**

14          Q.     Okay.  And sometimes complications would be  
15 encountered in the execution process?

16          **A.     It could happen.**

17          Q.     Okay.  And are you trying to avoid those?

18          **A.     Oh, of course.**

19          Q.     Okay.  And what is the purpose of avoiding those?

20          **A.     The purpose of avoiding --**

21          Q.     Uh-huh.  Wanting things to go smoothly, yeah.

22          **A.     You want it to go as smoothly as possible without**  
23 **an issue.**

24          Q.     Okay.  And is the purpose of avoiding an issue so  
25 that, or is one of the reasons so that the people who are



1 watching the execution are not subjected to unnecessary  
2 trauma?

3 **A. Oh, sure. Sure.**

4 Q. So you want to keep the execution for those  
5 individuals dignified and not filled with any unnecessary  
6 trauma?

7 **A. Certainly.**

8 Q. Okay. Now, with regard to the individual being  
9 executed, would those same goals still apply?

10 **A. Yes.**

11 Q. Okay. Dignified, right?

12 **A. Yes.**

13 Q. And no unnecessary trauma?

14 **A. Yes.**

15 Q. Okay. And to the extent possible, no infliction  
16 of physical pain?

17 **A. Whatever happens with the drugs, I really don't**  
18 **know, but other than that, yes.**

19 Q. Okay. Is it your understanding with regard to  
20 the drugs that they are set up the way that they are to  
21 reduce or eliminate the possibility of physical pain?

22 **A. I think that's the case.**

23 Q. Okay. Prior to the lethal injection drugs  
24 actually being injected into the individual, would it be  
25 fair to say that the inmate is being treated as somebody



1 might otherwise be treated in any other medical procedure  
2 who is offered a sedative, given a blanket and a pillow,  
3 offered reassurance --

4 **A. All that's true.**

5 Q. -- these kinds of things?

6 **A. Yes.**

7 Q. So those would be familiar kinds of a process  
8 that would occur on perhaps anytime someone who is getting  
9 an IV and medication and such?

10 **A. Yes, I suppose.**

11 Q. Okay. But the end result, obviously, is  
12 different; is that right?

13 **A. Certainly.**

14 MS. PILATE: This would be a good place to take a  
15 break.

16 (A LUNCH BREAK WAS TAKEN.)

17 (PETITIONERS' DEPOSITION EXHIBIT NOS. 3 AND 4  
18 WERE MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)  
19 BY MS. PILATE:

20 Q. I'm going to hand you what I have marked as  
21 Exhibit 3 and ask you if you could look at that document,  
22 please. Do you recognize that document?

23 **A. I do.**

24 Q. Have you seen it before?

25 **A. I have.**



1 Q. And when have you seen that?

2 A. Apparently on 5-27-09.

3 Q. Is that your signature?

4 A. It is.

5 Q. Okay. On the first page of that exhibit, what is  
6 that, please, if you could tell me what that is?

7 A. This, the cover page?

8 Q. Yeah. What is that?

9 A. It's a memo from Tom Clements, director of  
10 Institutions, to Warden Steve Larkins of ERDCC explaining  
11 that the sequence of chemical log forms have been approved  
12 by both he and I.

13 Q. Okay. Do you recall doing that approval?

14 A. Yeah, vaguely.

15 Q. Okay. If you turn the page, is that the sequence  
16 of chemicals?

17 A. To the best of my knowledge, yes.

18 Q. Do you see the Nos. 1, 2, 3, 4 and 5?

19 A. I do.

20 Q. Do you know why in this checkoff box, the box  
21 where it's numbered one, two, three, four, five --

22 A. Uh-huh.

23 Q. -- that no one noted the times that various  
24 syringes were administered?

25 A. No, I don't.



1 Q. Do you know why that's not required?

2 A. No.

3 Q. Looking towards the bottom, do you see NM1 and  
4 NM2?

5 A. Yes.

6 Q. Are those the departmental employees assigned to  
7 the execution team?

8 A. Yes, to my knowledge.

9 Q. And NM stands for nonmedical?

10 A. Yes.

11 Q. And M3, is that the doctor?

12 A. I believe one of them is, either M3 or M2.

13 Q. Okay. And the other is the nurse?

14 A. To the best of my knowledge.

15 Q. Okay. And turning the page, can you tell me what  
16 that is?

17 A. These are the -- information about the different  
18 drugs that were administered.

19 Q. Okay.

20 A. About the amount used.

21 Q. Okay. What is the purpose of this page?

22 A. To indicate that these were the drugs that were  
23 used for the execution.

24 Q. Okay. Is that your signature on this page?

25 A. It is.



1 Q. Okay. You can move that into that stack.

2 A. Okay.

3 Q. I'm going to hand you what I've marked as  
4 Exhibit 4.

5 A. Uh-huh.

6 Q. And is Exhibit 4 the same form absent being  
7 filled out?

8 A. I'm sorry?

9 Q. Filled out. It's not filled out, it's blank,  
10 right?

11 A. Yes.

12 Q. Okay. If you could turn to the next page,  
13 please, do you see a pre-execution summary of medical  
14 history?

15 A. I do.

16 Q. Okay. Have you ever seen this form before?

17 A. I don't remember seeing this.

18 Q. You don't?

19 A. No.

20 Q. Do you know what it is?

21 A. It speaks for itself, pre-execution summary of  
22 medical history.

23 Q. Do you know what the purpose is in taking a  
24 medical history?

25 A. I assume to help -- I don't know for sure, but I



1 think it has something to do with the physician making a  
2 decision about whether the history should play a part in  
3 drugs, but I don't know that for sure.

4 Q. Has there -- do you know if there's been any  
5 attention to whether drug interactions could occur with any  
6 of the medications that an inmate is currently taking prior  
7 to the execution?

8 A. I don't know that.

9 Q. Do you know if there has been any attention to  
10 medical conditions that an inmate might have that would  
11 interfere with the effort to execute him?

12 A. No, I don't know that.

13 Q. At any time when you have been employed with the  
14 Department of Corrections, not just recently, but going  
15 back to your 33-year period, has there been any point at  
16 which there has been any discussion of whether to switch to  
17 another method of execution other than lethal injection  
18 with these three drugs?

19 A. There has not.

20 Q. Okay. Has anyone discussed this medical form  
21 with you?

22 A. Not that I recall.

23 Q. Okay. Do you have any understanding of what its  
24 purpose is?

25 A. No, other than what I've just described as a



**possibility, but beyond that, I don't know.**

Q. Did you know whether there was any effort to screen an inmate for any medical problems that might affect the execution or his -- or the inmate's level of comfort or discomfort during the execution?

**A. No, I don't know.**

Q. So you basically knew nothing about this?

**A. Right.**

Q. Okay. Now, turning to the next page, can you tell me what this is?

**A. It appears to be a checklist of the use of the drugs during the execution process.**

Q. Okay. Do you know why lines are drawn through this form?

**A. I do not.**

MS. BORESI: I can tell you, I'm the one that did it.

MS. PILATE: Okay. Go ahead.

MS. BORESI: So the form couldn't be used in blank to create a fabricated document.

MS. PILATE: Well, who would do that?

MS. BORESI: Documents get circulated in the public.

MS. PILATE: Well, so that -- there's a protective order in place and I really think that the



1 lawyers involved in it would never do anything like that.

2 MS. BORESI: Oh, I understand.

3 MS. PILATE: There are also other blank forms, so  
4 I don't think there is any danger.

5 BY MS. PILATE:

6 Q. Do you see the box that says check when  
7 completed?

8 **A. Yes.**

9 Q. Okay. Is someone supposed to indicate on this  
10 form the time in which these various syringes were given?

11 **A. I'm not familiar with this form, so I really**  
12 **can't answer that question.**

13 Q. Okay. So you don't know?

14 **A. No.**

15 MS. PILATE: I need another sticker.

16 (PETITIONERS' DEPOSITION EXHIBIT NO. 5 WAS MARKED  
17 FOR IDENTIFICATION BY THE COURT REPORTER.)

18 BY MS. PILATE:

19 Q. I'm handing you what I've marked as Deposition  
20 Exhibit 5 and if you could, please take a look at that.  
21 Have you ever seen this document before?

22 **A. I have not.**

23 Q. You have not?

24 **A. No, I have not.**

25 Q. Okay. Do you know what it is?



1           **A.     No.**

2           Q.     Do you want to flip through it and take a minute  
3     and look at it and tell me if it means anything to you or  
4     do you think you've seen it at any point?

5           **A.     I've never seen this before, to my knowledge.**

6           Q.     Okay. Do you have any knowledge as to anything  
7     that's in the form?

8           **A.     It speaks for itself. Again, it looks like it's**  
9     **registrations from the -- control registration from the**  
10    **Department of Justice, Drug Enforcement Agency.**

11          Q.     Who's responsible for obtaining these licenses?

12          **A.     I'm not really sure about that, whether**  
13    **Mr. Clements is or the facility itself is through**  
14    **Mr. Clements. I'm not sure.**

15          Q.     Do you believe that Mr. Clements would be in the  
16    chain of responsibility as to this document?

17          **A.     Could be.**

18          Q.     Okay.

19                 MS. PILATE: Another sticker.

20                 (PETITIONERS' DEPOSITION EXHIBIT NO. 6 WAS MARKED  
21    FOR IDENTIFICATION BY THE COURT REPORTER.)

22    BY MS. PILATE:

23          Q.     Okay. I'm going to hand you Deposition Exhibit 6  
24    and ask if you could take a look at that.

25                 MS. PILATE: You know, I handed this out earlier



1 and I don't think I'm going to use this whole thing in this  
2 deposition, so you can give that back to me. It's just a  
3 bunch of drug logs.

4 BY MS. PILATE:

5 Q. Have you seen this document before?

6 A. No.

7 Q. Okay. Do you know what this is?

8 A. **It says it is a lethal injection protocol for**  
9 **execution team members.**

10 Q. Okay. So you've never seen this before?

11 A. **I have not.**

12 Q. And no one has asked you to review this?

13 A. **No, this was developed apparently during the time**  
14 **I was gone.**

15 Q. Do you know who drafted this?

16 A. **I do not.**

17 Q. Do you know if anything in this lesson plan has  
18 changed since it was written?

19 A. **I do not know that.**

20 Q. Do you know how often team members are trained  
21 with this curriculum?

22 A. **I don't.**

23 Q. Has anyone ever asked you to review this?

24 A. **They have not.**

25 Q. Do you know where this curriculum is maintained?



1           **A.     I do not.**

2           Q.     There was one page in here I wanted to ask you  
3     about.   Okay.   If you can find Page 384, it's toward the  
4     back.

5           **A.     Page 384?**

6           Q.     Uh-huh.

7           **A.     Okay.**

8           Q.     Okay.   Have you ever seen this particular  
9     document before?

10          **A.     I can't recall if I have or not.**

11          Q.     Do you see where it says at the top simulation  
12     training?   Were you ever given anything like this when you  
13     went through the simulation with Mr. Skillicorn?

14          **A.     No.**

15          Q.     Could you read the sequence of events and tell me  
16     if it comports with your understanding?

17          **A.     Yes.**

18          Q.     Okay.

19          **A.     I believe that this is generally what is to occur**  
20     **during a process.   I think this is an up-to-date process,**  
21     **especially the pieces that are mine in particular.**

22          Q.     Okay.   When the simulation was done with regard  
23     to Dennis Skillicorn, was there a simulated review of his  
24     pre-execution summary of medical history?

25          **A.     I don't know that.**



1 Q. Was there an offering of a sedative four to five  
2 hours before the scheduled execution?

3 A. I don't know that.

4 Q. Okay.

5 A. It would be simulated if there was, of course.

6 Q. Well, that's what I mean. Was that simulated?

7 A. Yeah, I don't know that in specific. I was not  
8 in that part of the operation.

9 Q. Okay. Was there a simulation of the securing of  
10 the gurney?

11 A. I believe there was, but I don't recall it in  
12 particular.

13 Q. Was there a simulation of people, medical and  
14 nonmedical personnel, reporting to their post in the  
15 execution room?

16 A. To the best of my knowledge, yes.

17 Q. Was there a simulation of the preparation of  
18 lethal injection drugs?

19 A. To the best of my knowledge, yes.

20 Q. What do you mean to the best of your knowledge?

21 A. I didn't have direct observation of any of that.

22 Q. Okay. So during the simulation, even you did not  
23 see any of this?

24 A. No.

25 Q. And why was that?



**A. Because my job was to be in the conference room and playing my role as the Department director, so I simulated the contact with the governor's office.**

Q. Okay. So you have never seen any of this?

**A. Not in particular.**

Q. Okay. Neither simulated nor live?

**A. No.**

Q. Okay. I should say simulated or real, I guess.

Did anyone tell you whether the syringes were prepared during the simulation?

**A. I don't recall.**

Q. Do you see at 10:30 it states that the warden reports to the execution room and brings a chronological log of execution room operations?

**A. I see that.**

Q. Okay. Do you know where that log is maintained?

**A. No.**

Q. Have you ever seen such a log?

**A. I can't recall if I have or haven't.**

Q. Okay. Did you see any such log after the execution of Mr. Skillicorn?

**A. I don't recall if I did or not. Well, you just showed me whatever that exhibit was that I signed off on, I did see that obviously.**

Q. Well, that pertained to the drugs, right?



1           **A.     Right.**

2           Q.     But not execution room operations?

3           **A.     No.**

4           Q.     Okay.

5           **A.     And I don't recall seeing that.**

6           Q.     At eleven o'clock it says, medical personnel,  
7     nonmedical personnel are at their assigned post in the  
8     execution room, which is verified by the operations  
9     officer. Who is the operations officer?

10          **A.     I don't give that information.**

11          Q.     I'm not asking for his or her name. You can  
12     describe that person.

13          **A.     It's an individual that works for the Department.**

14          Q.     Okay. So is that person an NM1 or NM2?

15          **A.     No.**

16          Q.     It's another person?

17          **A.     Correct.**

18          Q.     Okay. Is that person present in the execution  
19     chamber during the execution?

20          **A.     I don't know that.**

21          Q.     What is that person's responsibilities?

22          **A.     To make sure that people are on their posts in  
23     the execution room.**

24          Q.     Does that person have any other responsibilities?

25          **A.     I don't recall that they do. I don't know.**



Q. Is there anyone who is designated to supervise the execution team as a whole?

A. Other than, you know, Mr. Clements overseeing the process himself. He's not present in the execution chamber however.

Q. Okay. Where is Mr. Clements during the execution?

A. He plays the role that I played when I was director of institutions. He's with the witnesses.

Q. Okay. So he's not in the execution room or the chamber itself?

A. No.

Q. Okay. Who is there? Who is in the execution room?

A. M1 and M2 inform NM1 and NM2 or whatever that is, NM1 and NM2.

Q. That's all, nobody else?

A. To the best of my knowledge, that's all.

Q. 11:15, do you see where it says escort to execution room, director of Department of Corrections slash designee advise ERDCC warden that offender may be escorted to the execution room if no stay is in place and no legal activity is in progress to prevent the execution. Is that person you?

A. Yes.



1 Q. Okay. And what did you do during the simulation?

2 A. I said those words.

3 Q. Okay. Do you see where it says DAI director, is  
4 that Director of Adult Institutions?

5 A. It is.

6 Q. Slash designee will direct ERDCC warden to read  
7 the warrant statement to offender once he is secured to the  
8 gurney. Do you see that?

9 A. Yes.

10 Q. Does this suggest to you that prior to this point  
11 the individual is not secured to the gurney?

12 A. He's secured to the gurney before the warrant is  
13 read.

14 Q. Okay. Is he secured to the gurney prior to being  
15 placed in the execution chamber?

16 A. No.

17 Q. Okay. So he walks into the execution chamber?

18 A. He does.

19 Q. Do you see where it says assigned staff shall  
20 escort offender from the holding cell to the gurney and  
21 secure restraints?

22 A. Correct.

23 Q. Okay. Who walks the inmate into the execution  
24 chamber?

25 A. The assigned staff.



1 Q. Okay. And who are they? Are they part of the  
2 execution team?

3 **A. They are members of the staff.**

4 Q. Okay. But not otherwise members of the execution  
5 team?

6 **A. Of the four people in the execution team?**

7 Q. Uh-huh.

8 **A. No, they are not.**

9 Q. Okay. Do you see where it says 11:20 p.m. and  
10 the IVs are being inserted?

11 **A. Yes.**

12 Q. Okay. So before this point there are no IVs; is  
13 that correct?

14 **A. Yes. Of course, he has to be on the gurney**  
15 **before they are secured, which happened at 11:15.**

16 Q. Okay. The next paragraph, do you see references  
17 to Valium, Versed, ketamine and Haldol?

18 **A. Yes.**

19 Q. Okay. Do you know what all of those drugs are?

20 **A. No.**

21 Q. Do you know what Valium is?

22 **A. Yeah, I've got an idea what it is.**

23 Q. Okay. What is it?

24 **A. It's a sedative of sorts.**

25 Q. Okay. What is Versed?



1           **A.     The same and as far as I know.**

2           Q.     Ketamine?

3           **A.     Don't know anything about it.**

4           Q.     Haldol?

5           **A.     Don't know anything about it.**

6           Q.     And then next at 11:40 it says, ERDCC warden or  
7 nonmedical personnel shall contact the director of the  
8 Department of Corrections slash designee and advise if  
9 there are any delays in the preparation process. Do you  
10 see that?

11          **A.     I do.**

12          Q.     Were there any delays in your simulation?

13          **A.     No, not to my knowledge.**

14          Q.     Okay. And at midnight, it says the director of  
15 the Department of Corrections slash designee shall advise  
16 ERDCC warden to proceed with or stop the chemical injection  
17 process.

18                 MS. PILATE: And I should note here for the court  
19 reporter when I say ERDCC, those are all caps.

20                 THE COURT REPORTER: Yes.

21                 MS. PILATE: That's the acronym of the  
22 institution.

23                 THE COURT REPORTER: Right.

24          BY MS. PILATE:

25          Q.     If the execution is to proceed, he will give the



1 directive, you are hereby directed to proceed with the  
2 lawful execution of offender. Proceed as prescribed in the  
3 Department of Corrections protocol for execution of  
4 offender. Is that a statement that you read?

5 **A. Yes.**

6 Q. And does anyone else state those same  
7 instructions?

8 **A. I'm sorry?**

9 Q. Does anyone else state those same instructions or  
10 are you the only one that does that?

11 **A. I'm the only one that says that. Well, it is**  
12 **repeated by the warden.**

13 Q. Okay. Now, at the bottom of the page, you see  
14 where it says medical personnel monitor the  
15 electrocardiograph?

16 **A. Yes, I do.**

17 Q. And the offender during the execution?

18 **A. Yes.**

19 Q. Okay. And their job is to continue to try and  
20 ensure the inmate's freedom from pain and to attend to  
21 whatever comfort can be provided; is that their job there?

22 **A. At that point, as I understand it, they are**  
23 **observing through the window and then observing the EKG at**  
24 **the same time.**

25 Q. Okay. So they are not actually in the chamber



1 with him?

2 **A. They are not.**

3 Q. Is he by himself at that point?

4 **A. He is.**

5 Q. Okay. Then it states, nonmedical personnel  
6 remove the chemicals from the tray and begin the chemical  
7 injection process. Is that correct that the nonmedical  
8 individuals pick up these syringes?

9 **A. To the best of my knowledge.**

10 Q. Okay. Do you see where it states, if a problem  
11 occurs, should the flow of chemicals become impeded or the  
12 IV is leaking, the application of chemicals should be  
13 stopped and medical personnel should address this issue?  
14 Do you see that?

15 **A. Yes.**

16 Q. Okay. Have you ever simulated a problem during  
17 an execution?

18 **A. I don't recall that we have, but I don't know. I**  
19 **mean, obviously I was wasn't present for a number of**  
20 **executions.**

21 Q. Okay. So -- but in your simulation or any  
22 meetings or trainings that you've been involved with or are  
23 aware of, are you -- do you know whether there has been any  
24 simulation to prepare for a problem?

25 **A. I don't.**



1 Q. Okay. During the time the execution is  
2 occurring, is the only time the execution chamber is  
3 entered by anyone is when medical personnel enter the  
4 chamber to see whether the inmate is conscious or not?

5 A. Correct.

6 Q. During a simulation or training, has anyone ever  
7 simulated a situation where the four syringes containing  
8 the initial drug did not bring about unconsciousness and  
9 someone needed to resort to the use of the second set of  
10 syringes? Has that scenario ever been simulated?

11 A. I don't know that.

12 Q. Okay. Do you see towards the bottom of the page  
13 under the paragraph following, this completes Phase III?  
14 Do you see where it says, should activity of the offender's  
15 heart fail to cease after five minutes, medical personnel  
16 prepare an additional syringe of potassium chloride and  
17 give it to nonmedical personnel, the nonmedical personnel  
18 inject the additional syringe of potassium chloride?

19 Can you tell me if there's ever been a simulation  
20 or training in which the first syringe of potassium  
21 chloride failed to achieve the goal and the scenario  
22 involved the simulation of giving a second syringe of  
23 potassium chloride?

24 A. I don't know that.

25 Q. Do you know if there's even been a simulation or



1 training of any kind that addressed a situation where there  
2 was a completely unanticipated problem, such as where an IV  
3 didn't work or the drugs, for whatever reason, did not  
4 enter the circulatory system of the inmate?

5 **A. I don't recall that.**

6 Q. Have you heard about the situation in Ohio where  
7 attempts were made for two hours to start an IV line on an  
8 offender and everything failed?

9 **A. No.**

10 Q. Okay. You haven't heard of that?

11 **A. No.**

12 Q. Is there a backup plan for a situation where  
13 someone just can't get an IV started, or for whatever  
14 reason, the drugs do not circulate properly?

15 **A. No, I'm not aware of that. There are methods by**  
16 **which injections can occur.**

17 Q. I'm sorry?

18 **A. There are methods by which injections can occur**  
19 **through other procedures. No, I'm not.**

20 Q. Okay. Well, what I'm asking you is, are you  
21 aware of any backup plan?

22 **A. No, I'm not.**

23 Q. Okay. Continuing to flip through this exhibit,  
24 if you could look at Pages 391 through 394?

25 **A. Okay.**



1 Q. Are those training records?

2 A. They appear to be, but I really don't know.

3 Q. Okay. Well -- okay. Do you see in the upper  
4 right-hand corner where it states, Medical Team Member M2,  
5 Medical Team Member M3 and then Nonmedical 1 and  
6 Nonmedical 2? Do you see that?

7 A. Yes.

8 Q. Okay. Excluding the execution of Dennis  
9 Skillicorn, in reviewing Page 394 which applies to  
10 Nonmedical Team Member 2, would you agree that there appear  
11 to be 11 training sessions listed?

12 A. Yes. Yes.

13 Q. Okay. And in reviewing the form for  
14 Nonmedical 1, would you agree that there appear to be 11  
15 training sessions?

16 A. Yes.

17 Q. Okay. Then looking at Page 391, would you agree  
18 there appear to be 11 training sessions for Medical 2, M2?

19 A. Yes.

20 Q. Okay. And then looking at the Page 392 for M3,  
21 would you agree that there appear to be fewer training  
22 sessions for M3?

23 A. Yes.

24 Q. Okay. And would you agree that there are eight  
25 training sessions listed for M3 as compared with eleven



1 training sessions for the other team participants or team  
2 members?

3 **A. Yes, that appears that's so.**

4 Q. Has anyone ever told you how a simulation or  
5 training is conducted when M3 is not present?

6 **A. No.**

7 Q. Has anyone ever told you whether the roles are  
8 assigned any differently when there is one medical  
9 personnel present instead of two?

10 **A. No.**

11 Q. At this point is there a contract with the  
12 medical team members to continue their participation in  
13 executions into the future?

14 **A. I believe that's true.**

15 Q. Do you know for how long that time period is?

16 **A. No.**

17 Q. Has anyone ever discussed with you a need to have  
18 a training or simulation that addresses a situation in  
19 which unanticipated problems arise?

20 **A. No.**

21 Q. Has anyone ever discussed with you whether an  
22 individual inmate's condition would make it difficult to  
23 accomplish the execution or would make it difficult to  
24 accomplish without inflicting pain of constitutional  
25 magnitude?



1           **A.    No.**

2           Q.    Okay.  Are you aware of an inmate by the name of  
3  Russell Bucklew?

4           **A.    No.**

5           Q.    Okay.  So you've never heard of him?

6           **A.    No.**

7           Q.    Has anyone told you that there is an inmate who  
8  has a condition called cavernous hemangioma?

9           **A.    No.**

10          Q.    Do you know what cavernous hemangioma is?

11          **A.    I do not.**

12          Q.    Well, I'll tell you, it's basically  
13  conglomerations of malformed vessels in body cavities that  
14  kind of look a little bit like tumors.  Has anyone ever  
15  discussed with you whether an inmate had a condition like  
16  that or whether it would complicate efforts to achieve an  
17  execution?

18          **A.    No.**

19          Q.    Are you aware of any practical problems that  
20  could occur in an effort to conduct an execution?

21          **A.    No.**

22          Q.    Are you aware of any medical problems that could  
23  occur in an effort to conduct an execution?

24          **A.    No.**

25          Q.    Are there any plans in the future to have



1 prescriptions for any of the medications or drugs used in  
2 an execution?

3 **A. No.**

4 Q. Has there ever been any committee or working  
5 group within the Department of Corrections to address  
6 whether there are any problems, legal or otherwise, that  
7 might arise with the use of the drugs that are used in  
8 lethal injection?

9 **A. No.**

10 Q. Has anyone ever addressed with you whether any  
11 additional licensure or certificates or certifications of  
12 any kind are necessary to dispense or administer any of the  
13 drugs used in lethal injection?

14 **A. No.**

15 MS. PILATE: I want to talk with my co-counsel  
16 for a minute, and I think we may be ready to wrap it up.

17 (A BREAK WAS TAKEN.)

18 MS. PILATE: I am pleased to report we are done.

19 (SIGNATURE REQUESTED.)  
20  
21  
22  
23  
24  
25



1 August 26, 2010

2  
3  
4 Susan D. Boresi  
5 Attorney at Law  
6 815 Olive Street  
7 Suite 200  
8 St. Louis, Missouri 63101  
9

10 In Re: EARL RINGO, et al. vs. GEORGE A. LOMBARDI, et al.

11 Dear Ms. Boresi:


12 Please find enclosed your copy of the deposition of  
13 George A. Lombardi taken on August 23, 2010, in the  
above-referenced case. Also enclosed is the original  
signature page and errata sheet.

14 Please have Mr. Lombardi read your copy of the transcript,  
15 indicate any changes and/or corrections desired on the  
errata sheet and sign the signature page in front of a  
notary public.

16 Please return the errata sheet and signed signature page to  
17 Ms. Pilate so she can file the original deposition in the  
appropriate manner.

18 If you have any questions, please feel free to call me.

19 Sincerely,  
20

21   
22 Shelly L. Stewart, CCR  
CAPITAL CITY COURT REPORTING

23 Enclosures

24  
25 cc: Cheryl A. Pilate



(THIS IS THE SIGNATURE PAGE TO THE DEPOSITION OF GEORGE A.  
LOMBARDI TAKEN ON AUGUST 23, 2010.)

\_\_\_\_\_  
GEORGE A. LOMBARDI

Subscribed and sworn before me on this \_\_\_\_\_ day  
of \_\_\_\_\_ 2010.  
My Commission expires \_\_\_\_\_.

NOTARY PUBLIC - STATE OF MISSOURI  
Commissioned in \_\_\_\_\_ County



## E R R A T A   S H E E T

Page 1 of 2

Deponent:   GEORGE A. LOMBARDI

In Re:   EARL RINGO, et al. vs. GEORGE A. LOMBARDI, et al.

Date Taken:   AUGUST 23, 2010

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CAPITAL CITY COURT REPORTING

COLUMBIA 573-445-4142   JEFF CITY 573-761-4350   The LAKE 573-365-5226

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## E R R A T A   S H E E T

Page 2 of 2

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## C E R T I F I C A T E

I, Shelly L. Stewart, Certified Court Reporter, Capital City Court Reporting, 210 East High Street, Suite 110, Jefferson City, Missouri 65101, do hereby certify that pursuant to notice, there came before me,

GEORGE A. LOMBARDI,

at the offices of the Missouri Attorney General, Broadway State Office Building, 221 West High Street, 6th Floor, in the City of Jefferson, County of Cole, State of Missouri, on August 23, 2010, who was first duly sworn to testify to the whole truth of his knowledge concerning the matter in controversy aforesaid; that he was examined and his examination was then and there written in machine shorthand by me and afterwards typed under my supervision, and is fully and correctly set forth in the foregoing pages; and the witness and counsel waived presentment of this deposition to the witness, by me, and that the signature shall be acknowledged by a notary public, and the deposition is now herewith returned.

I further certify that I am neither attorney or counsel for, nor related to, nor employed by any of the parties to this action which this deposition is taken; and furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand on this 26th day of August 2010.

---

SHELLY L. STEWART, CCR  
CAPITAL CITY COURT REPORTING

CAPITAL CITY COURT REPORTING

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COURT MEMO  
IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

EARL RINGO, et al.,                    )  
  )  
Petitioners,                            )  
  )  
  )   Case No. 09-04095-NKL  
  )  
GEORGE A. LOMBARDI, et                )  
al.,                                        )  
  )  
Respondents.                            )

CERTIFICATE OF OFFICER & STATEMENT OF COSTS  
Transcript of Deposition of GEORGE A. LOMBARDI  
August 23, 2010

Name & address of person or firm having custody of the  
original transcript: CHERYL A. PILATE, 142 North Cherry  
Street, Olathe, Kansas 66061:

TAXED IN FAVOR OF: Petitioners Ringo, Middleton, Bucklew  
and Smulls, represented by CHERYL A. PILATE: Attendance,  
original, e-transcript & shipping & handling,

TOTAL.....\$679.00

TAXED IN FAVOR OF: Petitioners Ringo, Middleton, Bucklew  
and Smulls, represented by JOSEPH W. LUBY: No copy,

TOTAL.....\$-0-



C O U R T M E M O C O N T I N U E D

TAXED IN FAVOR OF: Defendants, represented by SUSAN D.  
BORESI: E-transcript,

TOTAL.....\$252.00

TAXED IN FAVOR OF: Defendants, represented by MICHAEL J.  
SPILLANE: No copy,

TOTAL.....\$-0-

Upon delivery of transcript, the above charges had not yet  
been paid. It is anticipated that all charges will be paid  
in the normal course of business.

SHELLY L. STEWART, CCR (No. 619)

CAPITAL CITY COURT REPORTING

Jefferson City \*\* The Lake \*\* Columbia

573-761-4350 \* 573-365-5226 \* 573-445-4142

IN AFFIRMATION THEREOF, I have hereunto set my hand on this  
26th day of August 2010.

\_\_\_\_\_  
SHELLY STEWART, CCR

CAPITAL CITY COURT REPORTING